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No.

IN THE

SUPREME COURT OF THE UNITED STATES

Patrick James Knowlton,

Petitioner

v.

Russell T. Bransford, et al.

On Petition For Writ Of Certiorari
To the United States Court of Appeals
For The District of Colombia Circuit

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. This cause – involving whether a grand jury witness subpoenaed to testify about the death of deputy White House Vincent Foster suffered tampering in violation of 42 U.S.C. 1985(2), a statute designed to protect the integrity and sanctity of the federal court system – raises issues of imperative importance to the public. Was the district court's granting of pre-discovery summary judgment, denial of leave to amend, and the United States Court of Appeals' summary affirmance, error?

2. Where a 42 U.S.C. § 1985(2) violation could be reasonably foreseen as a necessary or natural consequence of an overarching conspiracy to obstruct justice, must plaintiff name principles in the § 1985(2) violation to hold members of its overarching conspiracy liable?

3. In holding that plaintiff had failed to fairly raise the inference of conspiratorial agreement, did the district court err by drawing all inferences in favor of the moving parties?

PARTIES TO THE PROCEEDINGS

Petitioner

Patrick James Knowlton

Respondents

Ayman Alouri

Russell T. Bransford

Lawrence Monroe

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OPINIONS BELOW

The September 9, 1999, Memorandum opinion of the United States District Court for the District of Columbia is set forth in the Appendix filed herewith at 269. The District Court:

- Denied plaintiff the opportunity to conduct any discovery
- Denied plaintiff leave to amend his Complaint
- Granted all defendants' summary judgment motions

On November 29, 1999, the District Court denied plaintiff's motion to alter or amend the Court's judgment.

On June 27, 2000, the United States Court of Appeals for the District of Columbia Circuit ruled that the case presented no substantial question and granted all defendants further summary relief by summary affirmance. On September 13, 2000, the United States Court of Appeals denied Petitioner's petition for a hearing and petition for hearing *en banc*, at 299 & 301 of Appendix).

JURISDICTION

The United States Court of Appeals for the District of Columbia Circuit entered its Order granting summary affirmance on June 27, 2000. On July 27, 2000, Petitioner filed a timely Petition for Hearing and Suggestion for Hearing *En Banc*. On September 13, 2000, the United States Court of Appeals denied the rehearing petition. This Petition for Writ of Certiorari is filed within 90 days of the denial of the Petition for Hearing. This Court's jurisdiction is sought under 28 U.S.C. § 2101(c).

STATUTORY PROVISION INVOLVED

42 U.S.C. § 1985. *Conspiracy to interfere with civil rights* Part (2), *Obstructing justice; intimidating party, witness, or juror":*

If two or more persons in any State or Territory conspire to deter, by force, intimidation, or threat, any party or witness in any court of the United States from attending such court, or

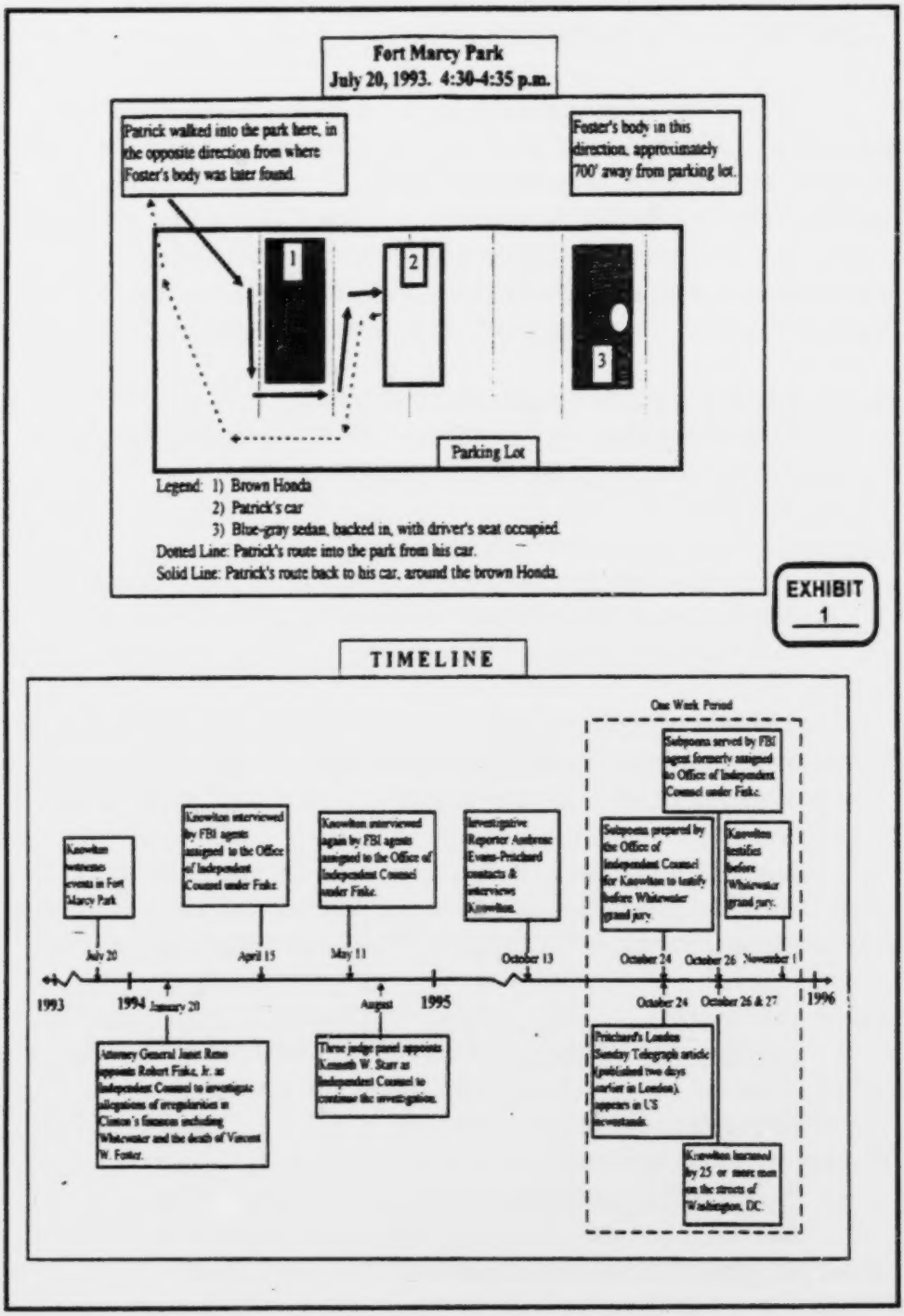
from testifying to any matter pending therein, freely, fully, and truthfully…

STATEMENT OF THE CASE

Petitioner Whitewater grand jury witness Patrick Knowlton sued under 42 U.S.C. 1985(2) for witness tampering that began October 26, 1995, the very day that the FBI subpoenaed him to testify about the death of deputy White House Counsel Vincent Foster. The Independent Counsel had prepared Knowlton's subpoena two days earlier – October 24, 1995 – the very day that the London Sunday Telegraph appeared in U.S. newsstands.

> London Sunday Telegraph, *Death in the Park: Is this the killer?* subtitled, *Foster mystery: a key witness ignored by the FBI reveals the face*. October 22, 1995, Ambrose Evans-Pritchard:
>
> When the *Sunday Telegraph* showed him police judicial summaries of his testimony -- which he had not seen -- he was stunned, saying his statements have been falsified...
>
> The other [car in the lot] was a blue sedan... [A] man in his twenties sitting inside it with a manicured appearance... lowered his window and gave Knowlton a threatening look...
>
> His FBI statement says that Knowlton "could not further identify this individual and stated that he would be unable to recognize him in the future." "That's an outright lie," he said, angrily... The sketch above was drawn by an experienced police artist... "They went over it about 20 times, telling me that this was Foster's car," said Knowlton. "But I was quite adamant about it. I saw what I saw, and I wasn't going to change my story."…
>
> Starr's investigators have never talked to Knowlton. The federal grand jury has never summoned him to give sworn testimony... (emphasis supplied)

Exhibit 1 of 5 the court-ordered OIC Appendix summarizes the facts of this case.



BEST AVAILAB

Exhibit 2 of 5 the court-ordered OIC Appendix encapsulates the grand jury witness tampering that Petitioner suffered.

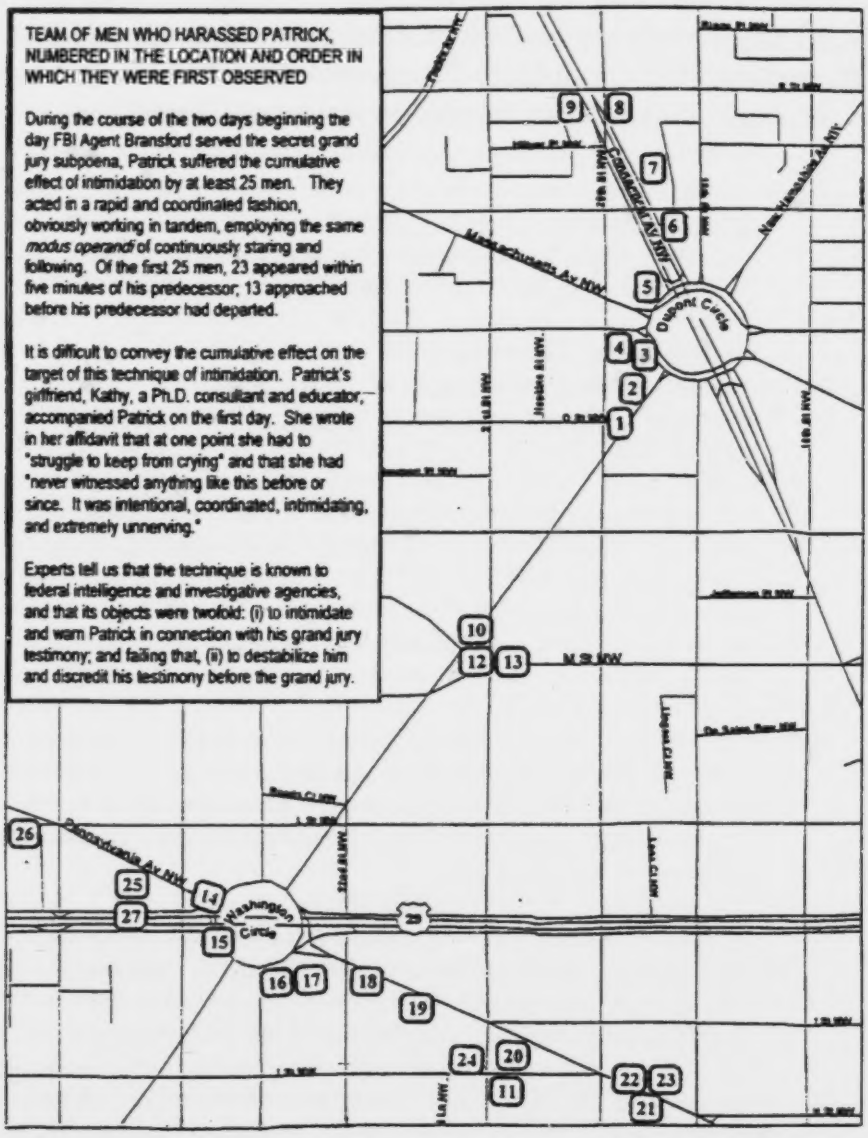


EXHIBIT 2

E COPY

The suit names (1) participants in the harassment and (2) participants in an overall or overarching conspiracy to obstruct justice into federal investigations into Mr. Foster's death. Knowlton's civil rights cause[1] asserts civil conspiracy liability: All individual[2] participants of that conspiracy[3] are vicariously liable for the section 1985(2) violation,[4] as done in furtherance of the overall conspiracy, within its scope, and reasonably foreseeable as a

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1 Safeguard Mutual Insurance Company v. Miller, 477 F. Supp. 1, 5, (ED PA, 1979), ("Many federal courts have recognized that a cause of action for conspiracy [in civil rights cases]"); Nesmith v. Alford, 318 F.2d 110 (5th Cir. 1963), *cert. denied*, 374 U.S. 975, 84 S.Ct. 489, 11 L.Ed2d 420 (1964) ("it may be charged as the legal mechanism through which to impose liability on each and all of the defendants without regard to the person doing the particular act."); Mizzell v. North Broward Hospital District, 427 F.2d 468, 472-73 (5th Cir. 1970); Madison v. Purdy, 410 F.2d 99, 101 (5th Cir. 1969) ("[T]he act of entering into a conspiracy may render a person responsible for the acts of his co-conspirator and thus make him vulnerable to a [civil rights] damage suit."); Landrigan v. City of Warwick, 628 F.2d 736, 742 (1st Cir. 1980); ("Conspiracy is merely the mechanism by which... [the civil rights violation imposes] liability on one defendant for the acts of others performed in pursuance of the conspiracy.").

2 See Hobson v. Wilson, 737 F.2d 1 (D.C. Cir. 1984): "We have not found neither in case law or in the language of the statute any reason to exclude all federal officers from the meaning of "persons" in section 1985(3)... Considerable case law rejects the proposed limitation on section 1985(3) and supports our conclusion..."

3 Id. at 51: [C]onspirators must share in the general conspiratorial objectives but they need not know all the details... or possess the same motives... [A]greement may be inferred from concert of action. *** In short, plaintiffs forcefully contend that it is a sham for defendants to plead that their activities were merely innocent efforts to obtain information for law enforcement authorities... Thus, in some instances activities that might appear proper - such as interviews of demonstrators - are alleged to have been improper because they were performed with an intent to intimidate, not gather information. (citations omitted).

4 Halberstam v. Welch, 705 F.2d 472, 476, 479 (D.C. Cir. 1983): "An agreement to participate in a wrongful course of action suffices to create vicarious liability... [O]nce the conspiracy is established, all parties to it would be liable for injuries from acts pursuant to and in furtherance of the common design, even if the parties had not actively participated or benefited..."

necessary or natural consequence of the overall conspiracy.[5] Petitioner filed suit in October, 1996.[6]

The district court appeared to have agreed that Knowlton's theory of the case was legally sound,[7] but held that his evidence did not meet his burden of production on the issue of conspiratorial agreement for either (1) participants in the harassment or (2) participants in an overall or overarching conspiracy to obstruct justice into federal investigations into Mr. Foster's death.

ARGUMENT FOR GRANTING THE WRIT

42 U.S.C. § 1985(2) . In June 1997, Petitioner met his burden of production to defeat summary judgment under his section 42 U.S.C. § 1985(2) claim, with 7 exhibits. They include three affidavits by witnesses to the intimidation, the affidavit and report of a Harvard-trained psychiatrist regarding Petitioner's account of the intimidation and of Petitioner's mental stability,[8] and the sworn to

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5 United States v. Sampol, 636 F.2d 621 (DC Cir., 1980), citing Pinkerton v. U.S., 328 U.S. at 676: "[A] conspirator can be found guilty of a substantive offense based upon acts of his coconspirator so long as the act was done in furtherance of the conspiracy, was within the scope of the unlawful project, and could be reasonably foreseen as a necessary or natural consequence of the unlawful project... the defendant will be vicariously liable... even though it was not part of the original plan."

See Amended Complaint at ¶ 11 alleging conspiracy liability: "[R]easonably foreseeable, necessary or natural consequence of the overall conspiracy to hide the facts of Mr. Foster's death, each member of that overall conspiracy is liable for Plaintiff's damages simply by virtue of his being a conspirator."

6 Knowlton v. United States et. al., Oct. 25, 1996 with motion to file under seal (two weeks before the Presidential election) granted by Chief Judge JGP, reassigned from NHJ to JGP July, 1997.

7 District Court's September 9, 1999, Memorandum Order ("Mem. Order"), Appendix K-1 at 282: "[P]laintiff alleges that Monroe is liable for subsidiary conspiracy based on his involvement in the broader conspiracy to obstruct justice, and because the subsidiary conspiracy was forseeable."

8 Affidavit of Thomas C. Goldman, Appendix F at 189-199:

reports of two experts who know of instances of this technique of witness intimidation being used, one of whom reported having used it. (Petitioner submitted his experts' reports to prove the existence of this technique of intimidation – the court viewed it solely on the issue of conspiratorial agreement – holding the collaborative effort of these men was happenstance as a matter of law.[9])

Exhibit 1: The Affidavit of Plaintiff's girlfriend (a Ph.D. consultant and educator), who witnessed the harassment of Thursday, October 26 and the morning of October 27, 1995, states in part: *"[A]t one point, I became so panic-stricken that I had to keep from crying. I have never witnessed anything like it before or since. It was intentional, coordinated, intimidating, and extremely unnerving;"*

Exhibit 2: Plaintiff's Affidavit...

Exhibit 3: The sworn to opinion of Plaintiff's polygraph examiner, Mr. Paul Minor, wherein he reported: *"deception not indicated;"*

Exhibit 4: Affidavit of the reporter who witnessed the harassment on Friday afternoon, October 27, who described it as an "*obvious attempt to intimidate."*

Exhibit 5: Mr. Gene Wheaton, a 40-year veteran investigator stated: *"[In his] opinion, the actions described in the Amended Complaint were intended to intimidate Plaintiff to try to prevent him from testifying freely, fully, and truthfully; "*

Exhibit 6: Mr. Ted L. Gunderson, a 28-year veteran of the FBI and former Senior Special Agent in Charge of the FBI's Los Angeles Division, wrote that he is familiar with the technique of intimidation Plaintiff suffered. *"This technique is used for intimidation and to prevent a witness from testifying and/or testifying truthfully and/or cooperating with officials out of fear of harm to the witness or his loved ones. I have knowledge of this tactic and know of instances when it has been used."*

Exhibit 7: The sworn-to opinion of an expert psychiatrist, who after a complete psychiatric examination of Plaintiff, including psychological testing, concluded: *"[There is] no indication of a paranoid process or of any other pathological process that would tend to undermine Mr. Knowlton's credibility in this instance."*

[9] Mem. Order, Appendix K-1 at 289:

According to his affidavit, Mr. Gunderson would also testify that the technique described by plaintiff, of which he is personally knowledgeable, is used to intimidate witnesses from testifying.

Overarching conspiracy. And plaintiff met his burden to defeat summary judgment under his conspiracy count. Of the 111 exhibits which plaintiff submitted in his June 1997, in opposition to summary judgment motions, 107 prove, *prima facie,* twenty points of conspiracy. A summary of thirteen of these twenty points is included in the Court-ordered OIC Appendix.[10] These 20 points are divided into 6 categories:

Gunderson Aff. ¶ 4(4). Neither proffered expert has any information tying any of the defendants to each other or any agreement to deprive plaintiff of his civil rights.

[10] OIC Appendix; Appendix I at 236:
Much evidence of obstruction of justice by the FBI is documented in Patrick's lawsuit in this District Court (No. 96-2467) for *inter alia,* violation of 42 U.S.C. § 1985(2), *"...Obstructing justice; intimidating... witness...":* "...(3) The FBI concealed... irregularities... during the U.S. Park Police investigation; (4) ...more than two cars in the parking lot; (5) ...deceptively omitted the fact that Foster's car keys were not found at Fort Marcy Park...; (6)...concealed that Mr. Foster's briefcase vanished from the Honda...; (8)...concealed that an automatic pistol was found in Mr. Foster's hand before the revolver...; (9) The FBI ignored forensic evidence...; (10) The wound... [and] blood... is not consistent with... a point blank shot...; (11) The FBI concealed that... a branch [was] lying across Mr. Foster's body; (12) The FBI ignored that the absence of soil on Mr. Foster's shoes is inconsistent with... to where he was... found; (13)... inconceivable for the glasses to have been thrown or bounced...; (15)...taking medication for depression but he was not; (16)...concealed ...doctor opined... Foster was not depressed; (17) The FBI falsely reported that those close... said he was deeply depressed; (20) The FBI lab reported...'suicide note' [authentic]..., but it was forged." See also attached: Exhibit 1: (i) Map of the cars in the Fort Marcy lot and Patrick's route to and from his car; & (ii) Timeline. Exhibit 2: Map depicting the harassment Patrick suffered. Exhibit 3: The FBI knew that Mrs. Foster could identify only a silver gun, so FBI agents showed her a silver gun, told her it was found in Mr. Foster's hand, and falsely reported that she identified the (black) gun found in Mr. Foster's hand as belonging to Mr. Foster. Exhibit 4: The FBI concealed that Mr. Foster's car was not in the Fort Marcy lot by the time he was dead. Exhibit 5: The FBI concealed the gunshot wound in Mr. Foster's neck by: (i) concealing the contents of the Medical Examiner's Report which states that there was a gunshot wound in Mr. Foster's neck; (ii) falsely reporting that the 35 mm photographs were unclear; (iii) concealing that Polaroid photographs vanished; and (iv) concealing that autopsy x-rays vanished.

- The initial FBI investigation
- The initial U.S. Park Police investigation
- Civilian vehicles in the Fort Marcy lot when authorities arrived
- The gun
- Other forensic evidence
- Depression

ARGUMENT 1

This cause – involving whether a grand jury witness subpoenaed to testify about the death of deputy White House Vincent Foster suffered tampering in violation of 42 U.S.C. 1985(2), a statute designed to protect the integrity and sanctity of the federal court system – raises issues of imperative importance to the public. The district court's granting of pre-discovery summary judgment, denial of leave to amend, and the United States Court of Appeals summary affirmance, was error.

A motion for summary affirmance is appropriate only where the party can readily demonstrate that the appeal raises no substantial question. Clearly, this is not such a case. Petitioner's suit is based on a statute that is designed to protect the integrity and sanctity of the federal court process, and the cause involves issues of extraordinary importance to the public.

Under the standards of Hobson v. Wilson, 737 F.2d 1, 31 (D.C. Cir. 1984), the District and the Appellate Courts should not have dismissed Petitioner's section 1985 complaint under the facts of Petitioner's pleading – this case involves fundamental rights and vital questions of public policy:

> [I]n some circumstances **plaintiffs are able to paint only with a very broad and speculative brush at the pre-discovery stage**, and that overly rigid application of the rule we articulate could lead to dismissal of meritorious claims. See 5 *C. Wright & A. Miller, Federal Practice and Procedure* 1230 (1969 & 1984 Supp.) ("The court should remember that fundamental rights and **important questions**

of public policy are involved in actions under the various civil rights statutes and should not dismiss the complaint unless it clearly is frivolous or fails to state a claim for relief.") (emphasis supplied.)

Based on its review of the very evidence filed in the district court, the Special Division of the United States Court of Appeals for the District of Columbia Circuit ordered the extraordinary remedy -- unprecedented in the history of the Ethics in Government Act -- of ordering Petitioner's 20-page submission attached to the Independent Counsel's Report on the death, including the facts giving rise to the instant litigation. Yet, the United States Court of Appeals refused to even permit Petitioner to brief his case.

Petitioner's cause involves alarming failures of our government.

- *Executive branch.* The Ethics in Government Act, designed to ensure confidence in the integrity of our government by providing investigations independent of those being investigated, was thwarted by the OIC's use of the FBI – a federal investigative agency that had twice previously closed the case as a simple suicide – presenting the conflict of interest that the Act is designed to avoid.

- *Legislative branch.* The 1994 Senate Banking Committee was the only Committee that claimed to have looked into the death, but its limited investigative jurisdiction precluded it from investigating the facts of the death. And Congress failed to reenact the Independent Counsel law, relegating the task of ensuring that justice has been done to regulatory independent counsels.

- *Press.* The press has acted mostly as a conduit for the official announcements and conclusions of the executive branch, like a public relations department.

- *Grand jury abuse.* Transplanted from England, and frequently referred to as the people's panel, the grand jury was valued as a kind of people's watchdog, and as a means of protesting abuses by the crown's emissaries. The Founders saw the grand jury as a bulwark for the individual against arbitrary or malevolent prosecutors. Today the grand jury is more of a prosecutor's panel, but this pre-constitutional institution is still a vehicle for effective citizen participation in government, and is still a people's panel, not captive or relegated by the Constitution to a position within any branches. In the instant case, the conduct alleged thwarted the grand jury's great power.

The submission of a full brief and appendix is necessary for an Appellate Court's de novo review of the evidence submitted to the district court on the issues of conspiratorial agreement.

Pre-discovery summary judgment. Some decisions unequivocally assert that an award of summary judgment is premature if the nonmovant has not had a chance to conduct discovery.[11] In the words of the Ninth Circuit, "[g]enerally where a

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[11] See, e.g., White's Landing Fisheries, Inc. v. Buchholzer, 29 F.3d 229, 231, 29 Fed. R. Serv. 3d 802, (6th Cir. 1994) (court reverses a grant of summary judgment because the nonmovant had not been afforded an opportunity to engage in discovery); WSB-TV v. Lee, 842 F.2d 1266, 1269 (11th Cir. 1988), related reference, 125 F.R.D. 191 (N.D. Ga. 1988); Martin v. District of Columbia Metropolitan Police Dept., 812 F.2d 1425 (D.C. Cir. 1987), reh'g granted, opinion vacated in part on other grounds, 817 F.2d 144 (D.C. Cir. 1987) and opinion reinstated on reconsideration, 824 F.2d 1240 (D.C. Cir. 1987) and (overruled on other grounds by, Crawford-El v. Britton, 93 F.3d 813 (D.C. Cir. 1996)) (summary judgment improper until nonmovant has an opportunity to take discovery of facts relating to cause of action); Cowan v. J.C. Penney Co., Inc., 790 F.2d 1529, 1532 (11th Cir. 1986) (court of appeals overturns grant of summary judgment where plaintiff nonmovant had informed court of pending discovery response from movant); Sames v. Gable, 732 F.2d 49 (3d Cir. 1984) (error for trial court to grant summary judgment at a time when the plaintiff nonmovant's interrogatories still unanswered); Miller v. U.S., 710 F.2d 656, 666 (10th Cir. 1983) (discovery is strongly favored before summary judgment is granted), cert denied, 464 US 939 (1983); National Life Ins. Co. v. Solomon, 529 F.2d 59 (2d Cir. 1975) (summary judgment should not be allowed where there are issues in dispute,

party has had no previous opportunity to develop evidence and the evidence is crucial to material issues in the case, discovery should be allowed before the trial court rules on a motion for summary judgment."[12] The Sixth Circuit has reversed a grant of summary judgment because the nonmovant had not been given a chance to take discovery in a case where the Rule 56 motion was filed twelve weeks after the action commenced and two weeks after an order to stay discovery, asserting that "some discovery must be afforded the nonmovant before summary judgment is granted."[13] One district judge expressed this position quite succinctly: "[I]n general, the court should not grant summary judgment until the party opposing the motion has had an adequate opportunity to conduct discovery."[14]

The significance of the status of discovery in relation to a summary judgment motion was stressed by the Supreme Court in the landmark case of Celotex Corp v Cattrell.[15] Chief Justice Rehnquist's majority opinion noted that the defendant's motion for

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especially where one side has not had a chance to engage in discovery); Eastern Refractories Co., Inc. v. Forty Eight Insulations, Inc., 668 F. Supp. 183 (S.D.N.Y. 1987) (error to grant summary judgment for contractor in construction dispute before owner nonmovant has a chance to take discovery).

12 Program Engineering, Inc. v. Triangle Publications, Inc., 634 F.2d 1188, 1193 (9th Cir. 1980).

13 White's Landing Fisheries, Inc. v. Buchholzer, 29 F.3d 229, 231, 29 Fed. R. Serv. 3d 802, 1994 FED App. 237P (6th Cir. 1994) (reversing a grant of summary judgment over a dissent contending that nonmovant had not shown how discovery would lead to facts preventing a summary judgment grant).

14 Doe v. Mercy Health Corp. of Southeastern Pennsylvania, 150 F.R.D. 83, 84, 2 A.D.D. 97 (E.D. Pa. 1993), related reference, 1993 WL 377064 (E.D. Pa. 1993), related reference, 1993 WL 417923 (E.D. Pa. 1993), related reference, 887 F. Supp. 765, 7 A.D.D. 779 (E.D. Pa. 1994) (court denies motion for summary judgment pending further discovery by nonmovant).

15 Celotex Corp. v. Catrell, 477 U.S. 317, 106 S. Ct. 2548, 91 L. Ed. 2d 265, 4 Fed. R. Serv. 3d 1024 (1986), on remand to, 826 F.2d 33, 8 Fed. R. Serv. 3d 656 (D.C. Cir. 1987).

summary judgment was filed one full year after commencement of the action and after discovery was conducted by the nonmovant.[16] Chief Justice Rehnquist found that these facts demonstrated that "no serious claim can be made that [nonmovant] was in any sense 'railroaded' by a premature motion for summary judgment."[17] In reaching this conclusion, Chief Justice Rehnquist focused particularly on the time the motion was filed in relation to the filing of the case and the status of completed discovery. The Court emphasized that courts should be sensitive to the status of discovery when deciding whether to rule upon a Rule 56 motion.

Courts have wisely hesitated to grant a motion for summary judgment before the nonmovant has had an adequate opportunity to complete discovery concerning the matters raised in the summary judgment motion. The concern that motions for summary judgment not be granted prematurely was articulated by the Supreme Court in Anderson v Liberty Lobby, Inc.[18] There the Court underscored the clear requirement that the nonmovant come forward with specific facts that demonstrate the existence of an issue for trial.

Petitioner requested significant discovery at the 1997 status hearing. And he apprised the district court of his discovery need for plaintiff's need for discovery to further prove defendants' participation in the conspiracy. See Plaintiff's supplemental memorandum of points & authorities in opposition to defendants' dispositive motions, July 14, 1997, n. 6 at 7-8:

> E.g., was it defendant Monroe or defendant Bransford who... investigated Mr. Foster's death in July of 1993 and reported that there was no criminal activity... reported that she [Mrs. Foster] identified the gun found in Mr. Foster's hand... [R]eported... two civilian witnesses "saw nothing unusual" in spite of the fact that they reported seeing two men in and

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16 Id. 318 ("the parties had conducted discovery").

17 Id.

18 Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 106 S. Ct. 2505, 91 L. Ed. 2d 202, Fed. R. Serv. 3d 1041 (1986).

around the Honda...; Mr. Foster's car keys... appeared... [at] the morgue... ...Over half of the Polaroid photographs of the crime scene mysteriously vanished; the FBI lab successfully enhanced the 35 millimeter photographs... interviewed paramedic Richard Arthur but omitted in the FBI 302 Report that Arthur said that the third car in the parking vanished without its driver being identified... failed to report that he [Arthur] was 100% sure he saw a semi-automatic gun in Foster's hand.

Moreover, what possible justification will Monroe have for swearing before the United States Senate that: There were no significant irregularities in the US Park Police investigation; the FBI interviewed everyone known to be in Fort Marcy Park on July 20, 1993; the FBI had no way to match the carpet fibers found on virtually all of Mr. Foster's clothing; family members reported that Mr. Foster was deeply depressed; Mr. Foster's friends stated that he appeared distracted; and those close to Mr. Foster reported that he had lost considerable weight.

ARGUMENT 2

Where a 42 U.S.C. § 1985 (2) violation could be reasonably foreseen as a necessary or natural consequence of an overarching conspiracy to obstruct justice, a plaintiff need not name principles in the § 1985(2) violation to hold members of its overarching conspiracy liable.

Additionally, the District Court misinterpreted the law of civil conspiracy liability. The Court opined that, in order to recover for the subsidiary 42 U.S.C. § 1985(2) violation, a defendant who participated in that civil rights violation would have to be before the Court.[19] This is incorrect. Petitioner need only show that the 42

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[19] Mem. Order; Appendix K-1 at 291:

> Even if the conspiracy against the plaintiffs in Brever ultimately was tied to the fact that there was wrongdoing at the plant which defendants wanted to and agreed to cover up, the evidence of such wrongdoing itself

U.S.C. § 1985(2) violation was reasonably foreseeable to recover from any conspirator to the overarching conspiracy. See United States v. Sampol, 636 F.2d 621 (DC Cir., 1980), citing Pinkerton v. U.S., 328 U.S. at 676:

> [A] conspirator can be found guilty of a substantive offense based upon acts of his coconspirator so long as the act was done in furtherance of the conspiracy, was within the scope of the unlawful project, and could be reasonably foreseen as a necessary or natural consequence of the unlawful project... vicariously liable... even though it was not part of the original plan.

ARGUMENT 3

In holding that plaintiff had failed to fairly raise the inference of conspiratorial agreement, the district court erred by drawing all inferences against the nonmoving parties.

Inferences. In the instant case, the district court drew all inferences in defendant's favor -- some of which were, in Petitioner's view, untenable. "Reasonable" inferences are not necessarily more probable or likely than other inferences that might tilt in the moving party's favor. Instead, so long as more than one reasonable inference may be drawn and that issue creates a genuine issue of material fact, the trier of fact is entitled to decide which inference to believe and summary judgment is not appropriate. The Court is not free to base summary judgment on the findings that it made in the present case. In Poller v. Columbia Broadcasting Service, Inc. 368 U.S. 464, 7 L.Ed.2d 548, 82 S.Ct. 486, this Court observed:

> It may be that upon all the evidence a jury would be with the respondents. But we cannot say on this record that "it is quite clear what the truth is." Certainly there is no conclusive evidence supporting respondent's theory. We look at the

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would not have been sufficient. Plaintiffs in Brever and plaintiff here, must come forward with evidence that is sufficient to support an inference that the persons before the Court came to an agreement to commit a violation of § 1985(2).

> record on summary judgment in the light most favorable... and conclude that it should not have been granted. We believe that summary procedures should be granted sparingly... Trial by affidavit is no substitute for trial by jury which so long has been the hallmark of "even handed justice."

"A court simply has no warrant to dismiss a... suit because it doubts a jury will ultimately return a verdict for the "non-moving party. McBride v. Merrell Dow and Pharmaceuticals, Inc. 800 F.2d 1208, 1212 (D.C. Cir. 1986). As the Supreme Court observed in Scheuer v. Rhodes, 416 U.S. 232, 40 L.Ed. 90, 94 S.Ct. 1683:

> The issue is not whether plaintiff will ultimately prevail but whether the claimant is entitled to offer evidence to support the claims... Moreover, it is well established that... the allegations of the complaint should be construed favorably to the pleader.

Conspiratorial agreement. The district court cited Graves v. U.S., 961 F. Supp. 314 (D.D.C. 1997) for the proposition that plaintiff had failed to sufficiently allege a "meeting of the minds." Graves held (at 321) that the proponent of a conspiracy claim "must allege with at least some degree of particularity the overt acts by defendants that were reasonably related to the promotion of the conspiracy." In the instant case, collaborative participation by 27 individuals is ample evidence to fairly raise the inference of agreement. Moreover, Petitioner's proposed Complaint sets forth with an ample "degree of particularity[20] the overt acts by defendants

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[20] Am. Comp. ¶ 1, Appendix D at 25:

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that were reasonably related to the promotion of the conspiracy." Graves id. Our case is like Chahal v. Paine Webber, Inc., 725 F.2d 20, 23 (2d Cir.1984), a 1985(2) case where the court, in reversing the district court's granting of summary judgment on the issue of conspiracy, observed that '[i]n granting summary judgment... the district judge appears to have overlooked facts supporting the claim and clear issues with respect to other material facts."

"[A]t summary judgment stage we must accept [plaintiff's] version of the facts. See Matsushita, 475 U.S. at 587, 106 S.Ct. at 1356." Here, the district court plainly did not follow the summary judgment standards of taking the evidence of the non-moving party as true, resolving all doubts against the moving party, construing all evidence in the light most favorable to the non-movant, and drawing all reasonable inferences in the non-movant's favor.[21]

The district court's view of the quantum of proof necessary to establish conspiratorial agreement is typified by its discussion of the participation of the Virginia Medical Examiner in the overall conspiracy. The court concludes that a necessary showing for conspiracy is the communication of the agreement.

> Plaintiff does not allege any "agreement" or "meeting of the minds" between these defendants and any other coconspirators, other than in completely conclusory fashion. There is no indication of how, or when, or with whom, for example, the Virginia medical examiner agreed to participate in an overall cover-up. Similarly, there is no such allegations or evidence with respect to the other newly-named defendants.[22]

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[21] See Hunt v. Cromartie, U.S. 119 S.Ct. 1545, 1551-1552, 143 L.Ed.2d 73 (1999); Eastman Kodak Co. v. Image Techinical Servs., Inc., 504 U.S. 451, 456, 112 S.Ct. 2072, 2076, 119 L.Ed.2d 265 (1992); Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 255, 106 S.Ct. 2505, 2513, 91 L.Ed.2d 202 (1986).

[22] Mem. Order; Appendix K-1 at 294.

Plaintiff's October 1998 proposed Amended Complaint, based on, and proven by a detailed review of over 10,000 pages of the government's own record in the case, is *exceptionally* fact specific. It by no means alleges defendants' wrongdoing in a "conclusory fashion."

Defendants cite no authority on conspiratorial agreement comparable to these facts – where the non-movant has met his burden of production to defeat summary judgment on conspiracy as has Petitioner in this case.

A. Defendant Alouri

Alouri is depicted as the 16th man in exhibit 2 to the court-ordered appendix to the Independent Counsel's Report on the death (page 4 above). As Alouri was stopped in a no stopping lane of 23rd street where it feeds into Washington Circle, he continuously stared at Petitioner. Alouri then drove the car very slowly onto the circle and past Petitioner while both Alouris continuously glared.

Seconds later, the car approached again from behind, and again drove slowly past as both Alouris glared at Petitioner. The car stopped about sixty feet ahead, whereupon the Alouris adjusted the car's mirrors to watch Petitioner and, as Petitioner walked in the direction of the car and observed the license plate, Alouri drove the car through a red light and sped away. Days later, Petitioner and another witness positively identified defendant Alouri.[23]

The district court ruled that, notwithstanding the fifteen individuals that preceded to two Alouris, and the ten who followed, the Alouris were, as a matter of law, not connected with these other 25 men, notwithstanding their obviously working in tandem in employing the same *modus operandi*.[24]

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23 Affidavit of Petitioner; Appendix at 229.

24 Mem. Order, Appendix K-1 at 288: "[P]laintiff is attempting to create an inference of an agreement based only on the alleged pattern of intimidation by persons he cannot show even knew one another."

The Court also dismissed the significant evidence of defendant Alouri's consciousness of guilt. Firstly, defendant Alouri had affixed his license plate NY 7534 to a different car to engage in the campaign of harassment, as pled. Secondly, in August of 1996, Alouri reported to the Virginia Department of Motor Vehicles that he had "lost" this license plate and had the Virginia Motor Vehicles issue plate number ZJG 4219 in its place.[25] (Alouri never denied this allegation of having new car license plates issued.)

Instead of viewing this evidence for the reasonable inference of Alouri's consciousness of guilt, the district court dismissed it as inconsequential: "Plaintiff's effort to allege additional facts regarding Ayman Alouri is similarly futile... as not establish[ing] any basis for a reasonable inference that Mr. Alouri knew or conspired with any other defendants."[26]

The only evidence defendant Alouri offered to rebut the allegations made against him was his Affidavit in which he denied driving a "white Honda... on October 25" -- *the date of the acts alleged is October 27.* Thus, the Affidavit is wholly irrelevant, and the district court did not address this fact. That Affidavit also recites that Alouri was "not aware" of Petitioner's grand jury subpoena or testimony, that he was "not aware" of "acts to commit a conspiracy to obstruct justice," and that he was "not aware" of "any acts to cause plaintiff emotional distress." Thus, defendant does not even deny Petitioner's allegations, but merely avers that he was unaware of their objects.

B. Defendant Monroe

There were three ways that Knowlton identified to Monroe the car that Knowlton had seen in the park on July 20, 1993: (1) selecting corresponding car color panels at the FBI laboratory, (2) comparing the car Knowlton saw to Monroe's photographs of Mr. Foster's car, and (3) describing to Monroe the car that Knowlton had seen in the park.

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25 Am. Comp. ¶¶ 136, 137; Appendix B at 70.

26 Mem. Order, Appendix K-1 at 293.

Selection of car color panels. Knowlton picked out car color panel Nos. 3499 and 3500 as the color of the car he saw – and "that color corresponded to one available only on 1983 and 1984 Hondas."[27] Thus, there was no question that Knowlton had seen a 1983 or 1984 Arkansas Honda in the park, but only Monroe knew the significance of Knowlton's information. Knowlton was unaware that when he had been in the lot at 4:30 -- Mr. Foster was already dead -- and so could not have driven to the park.[28] (Mr. Foster's car was silver 1989-year model.) But the only unequivocal information about Petitioner's identification of the car in Monroe's two reports of his interviews with Petitioner is that:

- Petitioner "identified this particular vehicle as a 1988 to 1990... Honda with Arkansas plates;" &
- Petitioner "reiterated his description of this Honda as a 1988-1990..."[29]

Court's view of car color panel selections. As to the only unequivocal information about Knowlton's identification of the car in Monroe's 302 reports, that Knowlton "identified… [it] as a 1988 to 1990...," the district court opined that "Monroe *indicated* that the car was a 1988-1990" – but did not address Knowlton's having picked car color panels corresponding only to 1983 or 1984 Hondas.[30] Monroe's reported information was false and known by Monroe to be false.

Monroe's showing Knowlton photographs of Mr. Foster's car. Knowlton's verified Complaint:

> While showing Plaintiff six or more photographs of Mr. Foster's car, MONROE questioned Plaintiff over 15 times in various ways whether the Arkansas Honda he had seen,

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27 OIC Appendix, Appendix I at 232.

28 Am. Comp. ¶ 72; Appendix B at 47.

29 Am. Comp. ¶ 60; Appendix B at 44.

30 Mem. Order; Appendix K-1 at 279.

parked in the same space as Mr. Foster's Honda was later found, could have been Mr. Foster's 1989 silver-gray colored Honda. Plaintiff repeatedly responded, "No"; that the Honda he saw was older, of a different body shape, and was rust-brown in color.[31]

Court's view of Monroe's showing Knowlton photographs of Mr. Foster's car. The Court mentioned Knowlton's repeated refusal to identify the car in the photographs as the car he had seen by quoting Monroe's report, wherein Monroe blunted the significance of Knowlton's statements by using the word "believed."[32]

Knowlton's description of the Arkansas Honda. The third way that Knowlton provided his information to Monroe regarding the car was repeatedly describing it. Over the course of two interviews, Monroe asked Petitioner in various ways -- for hours -- whether the Arkansas Honda that he had seen in the park "could" have been Mr. Foster's 1989 silver Honda. Each time, Petitioner response was the same, "no."

Undaunted, Monroe showed Knowlton the descriptions of witnesses who had purportedly described the Arkansas Honda as similar to Mr. Foster's -- newer than the one Knowlton had described, and silver-colored, not brown.[33] Monroe did not show Knowlton the reports of witnesses who had described the older brown Honda (*two of which were later ordered attached to the OIC's Report on the death*[34]). Knowlton did not cave, and Monroe was

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31 Am. Comp. ¶ 58; Appendix B at 44.

32 Mem. Order; Appendix K-1 at 280:

> The report further states that plaintiff also **believed** that the vehicle he saw was "shorter in length or more compact than the photographs of Mr. Foster's 1989 Honda and further **believed** that the color of the vehicle had a flat finish and was not glossy or clear coated as represented in the photographs of Mr. Foster's 1989 Honda." Id. Thus, it is absolutely clear upon reading the FD-302s, as dictated by Agent Monroe, that plaintiff strongly **believed**... (emphasis added)

33 Am. Comp. ¶ 71; Appendix B at 47.

34 OIC Appendix ; Appendix I at 248.

unable to write that Knowlton "said he could be mistaken," or words to that effect. So, Monroe did the next best thing — he blunted the significance of Knowlton 's account by writing that Knowlton "believed" and "recalled" that the car "appeared" not to be Mr. Foster's car.

Court's view of Knowlton's hours-long description of the car. The district court held, as a matter of law, that Monroe was merely trying to "discern whether the Honda with Arkansas license plates that Petitioner had seen could have been Mr. Foster's car."[35] Moreover, "plaintiff[s being] informed of conflicting witness statements and again shown photographs," was, in the court's view, "consistent with good police work."[36]

Other of Monroe's overt acts in furtherance of the conspiracy. Other falsified information in the reports include:

(1) Referring to the man in the blue-gray sedan, Monroe's report states that Knowlton *"could not further identify this particular individual nor his attire and stated that he would be unable to recognize him in the future."* Knowlton told Monroe just the opposite;[37]

(2) Monroe reported that Knowlton identified the blue-gray sedan as having "*Virginia license plates...*" Knowlton told Monroe that he had not seen the license plates on that car;[38] and

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35 The district court appeared to have agreed that defendants qualified immunity defense was inapplicable. See Hobson v. Wilson, 737 F.2d 1, 26, (rejecting same argument):

> In an effort to overcome the obvious, defendants focus on the trial evidence and argue that each individual act that they were shown to have committed was lawful, and that they consequently are immune. This argument seriously misconstrues the nature of the qualified immunity defense, and in particular the separate questions of law and fact.

36 Mem. Order; Appendix K-1 at 281.

37 Am. Comp. ¶ 61(1); Appendix B at 45.

38 Am. Comp. ¶ 61(2); Appendix B at 45.

(3) Regarding the contents of the rust-brown Honda, Monroe's 302 states that Knowlton "*could furnish no other descriptive data regarding the vehicle or for that matter the contents located within the vehicle,*" thus omitting that Knowlton reported seeing two wine cooler bottles on the back seat.[39]

"At the conclusion of this interview, MONROE asked plaintiff 'not to go to the press' with his story."[40] Soon thereafter, plaintiff complied, declining an on-air interview with radio talk-show host G. Gordon Liddy.[41]

On July 29, 1994, Defendant Monroe testified before the United States Senate Banking Committee, where "[t]he greater part of this testimony was false, was known by MONROE to be false, and constituted overt acts in furtherance of the cover-up."[42] That paragraph goes on to list six separate areas of defendant's perjured testimony.[43]

Court's view of other of Monroe's overt acts in furtherance of the conspiracy. The district court's memorandum order was silent on the other allegations of Monroe's having falsified reports and of Monroe's having asked Knowlton not to publicize his information. Regarding Knowlton's allegations of Monroe's having obstructed Congress,[44] the district court ignored it, holding that "[p]laintiff simply offers no evidence, other than the purported falsification of the reports, from which a reasonable juror could determine that Agent Monroe was involved in a conspiracy to obstruct justice into

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39 Am. Comp. ¶ 62; Appendix B at 45.

40 Am. Comp. ¶ 59; Appendix B at 44.

41 Am. Comp. ¶ 64; Appendix B at 45-46.

42 Am. Comp. ¶ 76; Appendix B at 49.

43 Am. Comp. ¶ 77; Appendix B at 52-55.

44 Mem. Order ; Appendix K-1 at 282.

the investigation of the death of Vincent Foster, as alleged by plaintiff."[45]

C. Defendant Bransford

"At the time of the service of the subpoena, BRANSFORD gave plaintiff his business card and said to plaintiff, 'Call me if you have any problems.'"[46] Petitioner's problems began that same day, he repeatedly called Bransford, the OIC, and the FBI, and on Friday, day two of the harassment, the OIC confirmed receipt of actual notice of the harassment.

Finally, on October 30, after the harassment subsided, defendant Bransford returned plaintiff's calls, whereupon Bransford reluctantly agreed, only at plaintiff's insistence, to call in advance of visit so plaintiff could have counsel present. That afternoon, Bransford called from the front of Petitioner's residence in violation of his agreement to call in advance, and, again, only at Petitioner's insistence, reluctantly agreed to wait 15 minutes for counsel's arrival. Again, Bransford did not honor his agreement, and arrived at Petitioner's door two-to-three minutes later. Thus, defendant de facto denied Knowlton the opportunity to have his lawyer present for defendant's contact with Knowlton. Upon his arrival in Petitioner's home, Bransford refused Knowlton's request for assistance or protection and further intimidated Knowlton.[47]

As the court observed in Hobon v. Wilson, 737 F.2d 1, 51 (D.C., 1984), law enforcement authorities' efforts to obtain information from witnesses may be improper as performed with intent to intimidate:

> In short, plaintiffs forcefully contend that it is a sham for defendants to plead that their activities were merely innocent efforts to obtain information for law enforcement

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45 Am. Comp. ¶ 104; Appendix B at 63.

46 Am. Comp. ¶¶ 106, 155, 159; Appendix B at 64, 74, 75.

47 Am. Comp. ¶¶ 156, 158, 159; Appendix B at 74-75.

> authorities... Thus, in some instances activities that might appear proper -- such as interviews of demonstrators -- are alleged to have been improper because they were performed with an intent to intimidate, not gather information. (citations omitted).

Bransford has yet to offer any possible explanation why he (1) grinned at Petitioner as if he had known exactly what Petitioner had been through, (2) repeatedly denied Petitioner his request for counsel, and (3) told Petitioner that whether Petitioner should trust him was a "good question."

Contrary to the district court's position, Petitioner's allegations against Bransford do not "stem"[48] from their two interactions. Rather, Petitioner's allegations against Bransford are based on being harassed by 26 men, punctuated at either end by the described visits by Bransford, who had been detailed first to Mr. Fiske's probe, and then to Mr. Starr's.

Court's view of Bransford's involvement. The district court ruled that Bransford's de facto denial of counsel was, as a matter of law, a result of "impatience, rudeness, or poor judgement."[49]

D. Additional defendants in proposed Amended Complaint

Petitioner's October 1998 proposed Amended Complaint, having been based on a detailed review of over 10,000 pages of the government's own record in the case, is *highly* fact specific. Not only does it not allege defendants' wrongdoing in a "conclusory fashion," but it is backed by 630 pages of exhibits selected after an 18-month review of this 10,000-page federal government record in the case.

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[48] Mem. Order ; Appendix K-1 at 282: "Plaintiffs allegations against Agent Bransford stem from two interactions..."

[49] Mem. Order; Appendix K-1 at 283.

On October 10, 1999, Petitioner submitted his 630 pages of exhibits (which had been under seal with the Special Division of the US Court of Appeals) with his *Cross-motion for entry of Partial Summary Judgment on the issue of the existence of Conspiracy.* Unfortunately, the district court had entered its dispositive order the day before, October 9, so, on October 15 Petitioner filed the 630 pages of exhibits with his Rule 59(e) motion to alter or amend.[50]

These 630 pages, proving the allegations in the October, 1998, proposed second Amended Complaint, belie the district court's conclusion that '[s]imilarly, there is no such allegations or evidence with respect to the other newly-named defendants.[51]" Petitioner makes ample showing of such participation in the conspiracy by all named defendants. And participation exceeds Petitioner's burden of production on the issue of conspiratorial agreement – it is ample circumstantial evidence agreement.

Defendants cite no authority on conspiratorial agreement comparable to these facts – where the existence of cover up, and defendants' participation in it, is clear, and where the civil rights violation was clearly committed in furtherance of that overall conspiracy.

But, in the district court's view, the existence of an overarching conspiracy to cover up the facts of the death is irrelevant as Petitioner had failed to meet its burden on his to 1985(2) claim.

> This court has already ruled, however, that such evidence is not enough to sustain this action. The Court determined that "Plaintiff has failed to offer sufficient evidence from which a reasonable juror could determine that there existed a meeting of the minds between any of the alleged conspirators," and that, [t]herefore, his claim pursuant to 1985(2) must be dismissed." [52]

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50 Order denying 59(e) motion, Appendix K-1 at 296.

51 Mem. Order; Appendix K-1 at 294.

52 Order denying 59(e) motion, Appendix K-1 at 296.

CONCLUSION

The district court held, pre-discovery, that plaintiff had not met his burden of production, and that the following were coincidences, unrelated, as a matter of law:

- Edwards seized the first photographs of the body and spilled blood to hide the neck wound.

- Beyer removed the soft palate and tongue before the police arrived to hide the entrance wound on the neck and the absence of such a wound in the mouth.

- The FBI lab concealed forensic evidence and falsified its lab reports.

- The night before Monroe's second interview of Knowlton, defendant Bicket, who had been "briefed at FBI headquarters," tire-ironed Knowlton's car – Park Police investigated & the USA refused to prosecute.

- Foster was dead by the time Knowlton saw a "1983 or 1984" "brown" Arkansas Honda. Monroe wrote that Knowlton saw a "1988-90" Honda, and told Knowlton "not to go to the press." Knowlton complied. Six witnesses corroborate Knowlton's account that Mr. Foster's 1989 gray Honda was not in the lot – when Mr. Foster was already dead.

- Evans-Pritchard's . Oct. 22, 1995 Telegraph article: [H]is statements have been falsified... "That's an outright lie... They went over it about 20 times, telling me that this was Foster's car..." Starr's investigators have never talked to Knowlton. The federal grand jury has never summoned him to give sworn testimony...

- The same day the Telegraph appeared in the U.S., the OIC prepared Knowlton's grand jury subpoena..

- The day that the FBI served the subpoena was the same day that the harassment started.

- 25 or more men came together and each intimidated Knowlton, and discredited him. Experts identify this technique as being used by the government to intimidate a witness, or alternatively to discredit a witness.

- Defendant Alouri, depicted as the 16th of 27 men above (p. 4), affixed his plates to another's car, followed Knowlton by car, sped through a red light as the plates were being read, and when later identified, expressed surprise that "it" concerned Foster. Then he replaced the plates, telling DMV that he had "lost" them.

- The OIC/FBI failed to respond to Knowlton's pleas for help until after the intimidation subsided.

- The 1985(2) intimidation by 25 or more men was punctuated at either end by visits by Bransford. In his first visit, Bransford told Knowlton to "call if you have any problems." In the second, Bransford said that whether Knowlton should trust him was "a good question," and that he had worked for Fiske where he investigated the death with defendant Monroe.

- The OIC asked Knowlton before the panel, "Did he [the man in the park] touch your genitals?" – this and other questions discredited Knowlton before the grand jury.

Collaborative participation of 27 individuals, even standing alone, is ample evidence to fairly raise the inference of agreement.

Petitioner is entitled to brief the record in this case, for Appellate de novo review of his burden of production on the issues of whether he failed to meet his burden, pre-discovery, as a matter of law, on five issues:

- The existence of the section 1985(2) violation
- Defendant Alouri's participation in that civil rights

violation

- The existence of the overarching conspiracy
- The section 1985 violation being subsidiary to the overarching conspiracy
- Eight other defendants' participation in the overarching conspiracy

A motion for summary affirmance is appropriate only where the party can readily demonstrate that the appeal raises no substantial question. Petitioner's case is based on a statute that is designed to protect the integrity and sanctity of the federal court process and his cause involves issues of extraordinary importance to the public.

Respectfully submitted,

/S/_____

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IN THE

SUPREME COURT OF THE UNITED STATES

Patrick James Knowlton,

Petitioner

v.

Russell T. Bransford, et al.

On Petition For Writ Of Certiorari
To the United States Court of Appeals
for the District of Colombia Circuit

PETITION FOR WRIT OF CERTIORARI

PETITIONER'S APPENDIX

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&

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Plaintiff

Patrick James Knowlton

Defendants

1. Lawrence Monroe
2. Russell T. Bransford
3. Ayman Alouri
4. Abdel Salem Alouri
5. JOHN DOE, No. 1 through No. 24

Counsel

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3. Dwight D. Murray
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Suite 600
1100 Connecticut Avenue, NW
Washington, DC 20036
(202) 296-4747

Date		*Proceeding*
10/25/96	1	COMPLAINT; appearance; jury demand Assigned to: Judge Norma Holloway Johnson
	--	[Motion to file Complaint under Seal]
	--	[ORDER by Chief Judge JGP granting plaintiff's motion for leave to file under seal
11/12/96	5	ORDER by Judge Norma H. Johnson: granting the motion to unseal the complaint on 11/12/96; unsealing this order the amended complaint, the motion to seal and the order sealing the complaint.
1/29/97	6	ORDER by Judge Norma H. Johnson: that plaintiff be, and hereby is, warned that this case will be dismissed as to any defendant who has not been served with a summons and complaint within the time period specified in Rule 4(m).
2/12/97	7	RETURN OF SERVICE/AFFIDAVIT of summons and complaint executed on 2/6/97 upon federal defendant LAWRENCE MONROE
2/14/97	8	RETURN OF SERVICE/AFFIDAVIT of summons and complaint executed upon U.S. Attorney General on 2/10/97
2/14/97	9	RETURN OF SERVICE/AFFIDAVIT of summons and complaint executed upon U.S. Attorney on 2/10/97

2/21/97	10	MOTION filed by plaintiff PATRICK JAMES KNOWLTON to extend time to 4/25/97 to serve process on defendants AYMAN ALOURI and ABDEL SALEM ALOURI; Affidavit (1).
2/21/97	11	RETURN OF SERVICE/AFFIDAVIT of summons and complaint executed on 2/14/97 upon federal defendant RUSSEL T. BRANSFORD
2/25/97	12	ORDER by Judge Norma H. Johnson: granting motion to extend time to 3/31/97 to serve process on defendants AYMAN ALOURI and ABDEL SALEM ALOURI [10-1] by PATRICK JAMES KNOWLTON
3/6/97	13	ATTORNEY APPEARANCE for federal defendant LAWRENCE MONROE, federal defendant RUSSEL T. BRANSFORD by Roderick Lynn Thomas.
3/6/97	14	MOTION (UNOPPOSED) filed by federal defendant LAWRENCE MONROE, federal defendant RUSSEL T. BRANSFORD to extend time to 04/11/97 respond to plaintiff's complaint.
3/7/97	15	ORDER by Judge Norma H. Johnson granting motion to extend time to 04/11/97 respond to plaintiff's complaint [14-1] by RUSSEL T. BRANSFORD, LAWRENCE MONROE ; Answer extended to 4/11/97 for RUSSEL T. BRANSFORD, for LAWRENCE MONROE

4/11/97	16	MOTION filed by federal defendant UNITED STATES, federal defendant LAWRENCE MONROE, federal defendant RUSSEL T. BRANSFORD to extend time to file dispositive motion.
4/14/97	17	ORDER by Judge Norma H. Johnson granting motion to extend time to 5/2/97 to file dispositive motions and/or answer the complaint [16-1] by RUSSEL T. BRANSFORD, LAWRENCE MONROE, UNITED STATES.
5/2/97	18	MOTION filed by federal defendant UNITED STATES, federal defendant LAWRENCE MONROE, federal defendant RUSSEL T. BRANSFORD to dismiss complaint or, in the alternative, for summary judgment; exhibits (4)
5/8/97	19	ORDER by Judge Norma H. Johnson that the plaintiff be, and hereby is, required to show cause by 5/21/97, why this case should not be dismissed against AYMAN ALOURI AND ABDEL SALEM ALOURI for lack of prosecution.
5/15/97	20	MOTION filed by plaintiff PATRICK JAMES KNOWLTON to extend time to 6/6/97 to file Opposition to defendants' motion to dismiss and motion for summary judgment
5/16/97	21	ORDER by Judge Norma H. Johnson granting motion to extend time to 6/6/97 to file opposition to defendants' motion to dismiss and motion for summary judgment PATRICK JAMES KNOWLTON

5/21/97	22	RESPONSE by plaintiff PATRICK JAMES KNOWLTON to show cause order [19-2]; attachment (copies of affidavit of Thomas J. Mullaney and 5/5/97 invoice for services rendered)
6/6/97	23	MOTION filed by movant KATHRYN KAPLAN for leave to file under seal, affidavit; EXHIBIT: Affidavit. (Placed under seal, in Vault, Room 1800)
6/6/97	24	RESPONSE by plaintiff PATRICK JAMES KNOWLTON in opposition to motion to dismiss complaint [18-1] by RUSSEL T. BRANSFORD, LAWRENCE MONROE, UNITED STATES, motion for summary judgment [18-2] by RUSSEL T. BRANSFORD, LAWRENCE MONROE, UNITED STATES; Exhibits (118).
6/16/97	25	MOTION filed by federal defendant LAWRENCE MONROE, federal defendant RUSSEL T. BRANSFORD, federal defendant UNITED STATES to extend time for an additional ten days to file a reply to plaintiff's opposition to the federal defendant's dispositive motion
6/17/97	26	ORDER by Judge Norma H. Johnson: granting motion to extend time for an additional ten days to file a reply to plaintiff's opposition to the federal defendant's dispositive motion [25-1] by UNITED STATES, RUSSEL T. BRANSFORD, LAWRENCE MONROE

6/25/97	27	ORDER by Judge Norma H. Johnson: that counsel for both parties respond to said motion not later than 7/14/97.
6/26/97	28	MOTION filed by federal defendant LAWRENCE MONROE, federal defendant RUSSEL T. BRANSFORD to extend time for a three-business-day period to file a reply to plaintiff's opposition to the federal defendants' dispositive motion
6/27/97	29	ORDER by Judge Norma H. Johnson granting motion to extend time for a three-business-day period to file a reply to plaintiff's opposition to the federal defendants' dispositive motion [28-1] by RUSSEL T. BRANSFORD, LAWRENCE MONROE; reply to dispositive motions due by 7/1/97.
7/1/97	30	RESPONSE by federal defendant UNITED STATES, federal defendant LAWRENCE MONROE, federal defendant RUSSEL T. BRANSFORD in opposition to motion for leave to file under seal, affidavit [23-1] by KATHRYN KAPLAN. (Placed under seal in Vault, Room 1800)
7/1/97	31	REPLY by federal defendant UNITED STATES, federal defendant LAWRENCE MONROE, federal defendant RUSSEL T. BRANSFORD to response to motion to dismiss complaint [18-1] by RUSSEL T. BRANSFORD, LAWRENCE MONROE, UNITED STATES, motion for summary judgment [18-2] by RUSSEL T. BRANSFORD, LAWRENCE MONROE, UNITED STATES

7/2/97	32	ORDER by Judge Norma H. Johnson granting motion for leave to file under seal, affidavit [23-1] by KATHRYN KAPLAN; if the Court denies the federal defendants' dispositive motion in full or in part, the unredacted affidavit shall be placed upon the public record, unless plaintiff renews his motion within 10 days of such ruling.
7/3/97	33	MOTION filed by plaintiff PATRICK JAMES KNOWLTON for leave to file, prior to the Court's ruling on defendants' dispositive motions, amended complaint
7/9/97	34	ERRATA by federal defendant LAWRENCE MONROE, federal defendant RUSSEL T. BRANSFORD in re: corrected pages to defendants' reply brief filed 7/1/97; attachments (2)
7/9/97	35	RESPONSE by UNITED STATES, LAWRENCE MONROE, RUSSEL T. BRANSFORD in opposition to motion for leave to file, prior to the Court's ruling on defendants' dispositive motions, amended complaint [33-1] by PATRICK JAMES KNOWLTON.
7/14/97	36	MOTION filed by plaintiff PATRICK JAMES KNOWLTON for leave to file supplemental memorandum of points & authorities in opposition to defendants' dispositive motions; Exhibit (SUPPLEMENTAL MOMORANDUM OF POINTS & AUTHORITIES IN OPPOSITION TO DEFENDANTS' DISPOSITIVE MOTIONS)

7/14/97	37	MOTION filed by plaintiff PATRICK JAMES KNOWLTON for leave to file second amended complaint; Exhibit (SECOND AMENDED COMPLAINT)
7/24/97	--------	CASE REASSIGNED from Chief Judge Norma Holloway JOHNSON to Judge John G. PENN by direction of the CALENDAR COMMITTEE.
7/25/97	38	RESPONSE by federal defendant UNITED STATES, federal defendant LAWRENCE MONROE, federal defendant RUSSEL T. BRANSFORD in opposition to motion for leave to file second amended complaint [37-1] by PATRICK JAMES KNOWLTON, motion for leave to file supplemental memorandum of points & authorities in opposition to defendants' dispositive motions [36-1] by PATRICK JAMES KNOWLTON.
8/4/97	39	MOTION filed by plaintiff PATRICK JAMES KNOWLTON to extend time to 8/13/97 to file his memorandum in reply to defendants' oppositions to Plaintiff's Motion for Leave to File Second Amended Complaint and Plaintiff's Motion for Leave to file Supplemental Memorandum in Opposition to Defendants' Dispositive Motions
8/12/97	40	REPLY by plaintiff PATRICK JAMES KNOWLTON to response to motion for leave to file second amended complaint [37-1] by PATRICK JAMES KNOWLTON, motion for leave to file supplemental memorandum of points & authorities in opposition to defendants' dispositive motions [36-1] by PATRICK JAMES KNOWLTON; attachments.

8/20/97	41	RETURN OF SERVICE/AFFIDAVIT of summons and complaint executed on 7/29/97 upon defendant AYMAN ALOURI, via certified mail; attachment
8/20/97	42	MOTION filed by defendant AYMAN ALOURI to extend time to 9/3/97 to answer complaint
8/26/97	43	ORDER by Judge John G. Penn: granting motion to extend time to 9/3/97 to answer complaint [42-1] by AYMAN ALOURI Answer extended to 9/3/97 for AYMAN ALOURI
9/3/97	44	MOTION filed by defendant AYMAN ALOURI to dismiss the complaint, or, in the alternative, for summary judgment; exhibits
9/15/97	45	RESPONSE by plaintiff PATRICK JAMES KNOWLTON in opposition to motion to dismiss the complaint [44-1] by AYMAN ALOURI, motion for summary judgment [44-2] by AYMAN ALOURI; exhibits (3)
9/25/97	46	MOTION filed by defendant AYMAN ALOURI to extend time to 10/1/97 to file a Reply
9/30/97	47	ORDER by Judge John G. Penn: granting motion to extend time to 10/1/97 to file a reply [46-1] by AYMAN ALOURI; reply to motion(s) due by 10/1/97
10/1/97	48	REPLY by defendant AYMAN ALOURI to response to motion to dismiss the complaint [44-1] by AYMAN ALOURI

11/3/97	49	MOTION filed by plaintiff PATRICK JAMES KNOWLTON for leave to file an excerpt of The Secret Life of Bill Clinton and the Appendix to the OIC's Report, submitted by Patrick Knowlton; EXHIBIT (AFFIDAVIT, EXCERPT OF THE SECRET LIFE OF BILL CLINTON)
11/7/97	50	RESPONSE by federal defendant UNITED STATES, federal defendant LAWRENCE MONROE, federal defendant RUSSEL T. BRANSFORD to motion for leave to file an excerpt of The Secret Life of Bill Clinton and the Appendix to the OIC's Report, submitted by Patrick Knowlton [49-11 by PATRICK JAMES KNOWLTON; attachment (1)
11/14/97	51	ATTORNEY APPEARANCE for defendant AYMAN ALOURI by Karen M. Kohn (pob)
11/14/97	52	RESPONSE by defendant AYMAN ALOURI in opposition to motion for leave to file an excerpt of The Secret Life of Bill Clinton and the Appendix to the OIC's Report, submitted by Patrick Knowlton [49-1] by PATRICK JAMES KNOWLTON.
11/20/97	53	ORDER FOR INITIAL SCHEDULING HEARING by Judge John G. Penn: Meet Confer hearing set for 9:30 12/12/97 (N) (clv)
12/4/97	54	MEET AND CONFER STATEMENT/REPORT PURSUANT TO L.R. 206(d) filed by plaintiff PATRICK JAMES KNOWLTON, federal defendant UNITED STATES, defendant AYMAN ALOURI, defendant ABDEL SALEM ALOURI, federal defendant LAWRENCE

		MONROE, federal defendant RUSSEL T. BRANSFORD, movant KATHRYN KAPLAN.
12/12/97		STATUS HEARING before Judge John G. Penn: motion hearing set for 1/20/97; Defendant Ayman Alouri oral motion to dismiss defendant Abdel S. Alouri; Heard and Taken Under Advisement. Reporter: Harry Deutsch
12/12/97	55	ORDER by Judge John G. Penn: motion to dismiss or motion for summary judgment hearing set for 1:30 p.m. on 1/20/98
1/14/98	56	TRANSCRIPT filed for date(s) of December 12, 1997. Reporter: Harry Deutsch
1/20/98 --		MOTION HEARING before Judge John G. Penn: Heard and Taken Under Advisement by RUSSEL T. BRANSFORD, LAWRENCE MONROE, UNITED STATES motion for summary judgment [18-2] Reporter: Deutsch
2/17/98	57	TRANSCRIPT filed for date(s) of 1/20/98. Reporter: Harry Deutsch
10/21/98	58	MOTION filed by plaintiff PATRICK JAMES KNOWLTON for leave to file revised second amended complaint EXHBIIT (second amended complaint)
11/6/98	59	MOTION (UNOPPOSED) filed by federal defendant UNITED STATES, federal defendant LAWRENCE MONROE, federal defendant RUSSEL T. BRANSFORD to extend time to 11/13/98 to file opposition to plaintiff's motion for leave to file revised second amended complaint

11/10/98	60	ERRATA by plaintiff PATRICK JAMES KNOWLTON correcting two errors made in plaintiff's proposed Second Amended Complaint
11/13/98	61	RESPONSE by federal defendant UNITED STATES, federal defendant LAWRENCE MONROE, federal defendant RUSSEL T. BRANSFORD in opposition to motion for leave to file revised second amended complaint [58-1] by PATRICK JAMES KNOWLTON.
11/23/98	62	REPLY by plaintiff PATRICK JAMES KNOWLTON to response to motion for leave to file revised second amended complaint [58-1] by PATRICK JAMES KNOWLTON
12/l/98	63	MEMORANDUM by defendant AYMAN ALOURI adopting the arguments set forth in the Federal Defendants' Opposition to "Plaintiff's Motion for Leave to File Revised Second Amended Complaint"; "Let this be filed, PENN, J."
3/31/99	64	ORDER by Judge John G. Penn: granting in part, denying in part motion for leave to file an excerpt of The Secret Life of Bill Clinton and the Appendix to the OIC's Report, submitted by Patrick Knowlton [49-1); denying the plaintiff's request to file a supplemental affidavit and excerpts from the Secret Life of Bill clinton is denied, and it is FURTHER ORDERED granting the plaintiff's request to file an appendix to the report on the death of Vincent Foster, however the Court will also accept the complete version of the report submitted by defendants

		in opposition.
4/7/99	65	SUBSTITUTION OF COUNSEL for federal defendant UNITED STATES, federal defendant RUSSEL T. BRANSFORD , substituting William Mark Nebeker for attorney Roderick Lynn Thomas for RUSSEL T. BRANSFORD, attorney Roderick Lynn Thomas for LAWRENCE MONROE
9/9/99	66	ORDER by Judge John G. Penn: granting motion, nunc pro tunc, to extend time to 11/13/98 to file opposition to plaintiff's motion for leave to file revised second amended complaint [59-1] RUSSEL T. BRANSFORD, LAWRENCE MONROE, UNITED STATES; to file an opposition to plaintiffs' motion nunc pro tunc to 11/13/98;
9/9/99	67	ORDER by Judge John G. Penn: denying motion for leave to file revised second amended complaint [58-1] by PATRICK JAMES KNOWLTON, granting motion to dismiss the complaint [44-1] by AYMAN ALOURI, granting motion for summary judgment [44-21 by AYMAN ALOURI, granting motion to dismiss complaint [18-11] by RUSSEL T. BRANSFORD, LAWRENCE MONROE, UNITED STATES, granting motion for summary judgment [18-21] by RUSSEL T. BRANSFORD, LAWRENCE MONROE, UNITED STATES and for judgment in favor of defendants and against plaintiff and it is FURTHER ORDERED dismissed with prejudice.
9/9/99	68	MEMORANDUM OPINION by Judge John G. Penn

9/9/99	69	SUBSTITUTION OF COUNSEL for federal defendant UNITED STATES, federal defendant LAWRENCE MONROE, federal defendant RUSSEL T. BRANSFORD, substituting Gordon Michael Harvey for attorney William Mark Nebeker for RUSSEL T. BRANSFORD, attorney William Mark Nebeker for UNITED STATES
9/10/99	70	JUDGMENT by JUDGE JOHN GARRET PENN in favor of federal defendant UNITED STATES, defendant AYMAN ALOURI, federal defendant LAWRENCE MONROE, federal defendant RUSSEL T. BRANSFORD against plaintiff PATRICK JAMES KNOWLTON [Entry date 09/13/99] [Edit date 09/14/99]
9/15/99	71	MOTION filed by plaintiff PATRICK JAMES KNOWLTON to alter or amend entry of summary judgment and order denying leave to amend complaint [67-1], order dismissed with prejudice. [67-21, order [67-3]; EXHIBIT (CROSS-MOTION)
9/22/99	73	NOTICE OF WITHDRAWAL of attorney Karen M. Kohn for AYMAN ALOURI.
9/28/99	72	MOTION filed by federal defendant UNITED STATES, federal defendant LAWRENCE MONROE, federal defendant RUSSEL T. BRANSFORD to extend time to 10/8/99 to oppose plaintiff's motion to alter or amend entry of summary judgment and order denying leave to amend complaint
9/30/99	74	BILL OF COSTS by defendant AYMAN ALOURI

10/8/99	75	RESPONSE by federal defendant UNITED STATES in opposition to motion to alter or amend entry of summary judgment and order denying leave to amend complaint [67-1], order dismissed with prejudice. (N) [67-2], order [67-3] [71-1] PATRICK JAMES KNOWLTON.
10/13/99	76	RESPONSE by defendant AYMAN ALOURI in opposition to motion to alter or amend entry of summary judgment and order denying leave to amend complaint [67-1], order dismissed with prejudice. (N) [67-2], order [67-3] [71-1] by PATRICK JAMES KNOWLTON.
10/18/99	77	REPLY by plaintiff PATRICK JAMES KNOWLTON to defendants' opposition to plaintiff's motion to alter or amend entry of summary judgment and denying leave to amend complaint [67-1], order dismissed with prejudice. (N) [67-2], order [67-3] [71-1]; attachment (1) (tw).
11/29/99	78	MEMORANDUM by Judge John G. Penn: denying motion to alter or amend entry of summary judgment and order denying leave to amend complaint [67-1], order dismissed with prejudice. [67-2], order [67-3] [71-1] by PATRICK JAMES KNOWLTON
11/30/99	79	ORDER by Judge John G. Penn: granting, NUNC PRO TUNC motion to extend time to 10/8/99 to oppose plaintiff's motion to alter or amend entry of summary judgment and order denying leave to amend complaint [72-1] by RUSSEL T. BRANSFORD, LAWRENCE MONROE, USA

12/28/99	80	NOTICE OF APPEAL by plaintiff PATRICK JAMES KNOWLTON from orders [78-1], [67-1] , entered on: 9/9/99 and 11/30/99; $5.00 filing fee and $100.00 docketing fee paid to U.S. Treasury; Copies mailed to Counsel of Record.
12/29/99		TRANSMITTED PRELIMINARY RECORD on appeal [80-11 by PATRICK JAMES KNOWLTON to U.S. Court of Appeals
1/3/00		USCA # 99-5433 assigned for appeal by PATRICK JAMES KNOWLTON

Docket Sheet, U.S. Court of Appeals for the DC Circuit, No. 99-5433 Knowlton v. Bransford,et al., Filed: 12/29/99

Date Complaint filed: 10/25/96
Date order/judgment: 1/29/99
Date NOA filed: 12/28/99

Plaintiff - Appellant

Patrick James Knowlton

Defendants - Appellees

1. Lawrence Monroe
2. Russell T. Bransford
3. Ayman Alouri

Counsel

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Suite 600
1100 Connecticut Avenue, NW
Washington, DC 20036
(202) 296-4747

Date	*Proceeding*
1/3/00	CLERK'S ORDER filed directing Appellant to file [487580-11: docketing statement; certificate of counsel; statement of issues; lower court decision; any procedural motions; transcript status notice; deferred appendix notice; appearance form due 2/2/00; any dispositive motions due 2/17/00. Directing Appellee to file [487580-21: certificate of counsel; any procedural motions; appearance form due 2/2/00; any dispositive motions due 2/17/00.
2/1/00	INITIAL SUBMISSIONS filed by Appellee Ayman Alouri: Certificate of Counsel.
2/1/00	ENTRY OF APPEARANCE filed by Attorney Stephen J. Vaughan for Appellee Ayman Alouri, Dwight D. Murray for Appellee Ayman Alouri
2/2/00	MOTION filed (5 copies) by Appellant Patrick James Knowlton (certificate of service dated 2/2/00) to dismiss appellee USA and to change caption
2/2/00	INITIAL SUBMISSIONS filed by Appellee USA, Appellee Lawrence Monroe, Appellee Russel T. Bransford; certificate of counsel.
2/2/00	ENTRY OF APPEARANCE filed by Attorney Gordon Michael Harvey for Appellee Russel T.

Bransford, Appellee Lawrence Monroe, Appellee USA, Wilma Antoinette Lewis for Appellee Russel T. Bransford, Appellee Lawrence Monroe, Appellee USA, R. Craig Lawrence for Appellee Russel T. Bransford, Appellee Lawrence Monroe, Appellee USA

2/2/00 INITIAL SUBMISSIONS filed by Appellant Patrick James Knowlton: docketing statement; statement of issues; lower court decision; certificate of counsel; deferred appendix notice (Deferred Appendix needed = n).

2/2/00 ENTRY OF APPEARANCE filed by Attorney John Harrison Clarke for Appellant Patrick James Knowlton

2/2/00 NOTICE filed by Appellant Patrick James Knowlton FINAL transcript status notice filed. Transcripts are not needed in this case. Certificate of service date 2/2/00.

2/7/00 UNOPPOSED MOTION filed (5 copies) by Appellee USA, Appellee Lawrence Monroe, Appellee Russel T. Bransford (certificate of dated 2/7/00) to extend time to file a motion for summary affirmance until 3/22/00.

2/15/00 CLERK'S ORDER filed granting motion to dismiss appellee United States of America as a party to the appeal. The Clerk is directed to note the docket accordingly.

2/17/00 CLERK'S ORDER filed granting motion extend time filed by USA, Lawrence Monroe, Russel T. Bransford to file a motion for summary affirmance . The motion is now due March 22, 2000.

3/22/00 MOTION lodged (5 copies) by Appellee Ayman

	Alouri (certificate of service dated 3/22/00) for summary affirmance
3/22/00	MOTION filed (5 copies) by Federal Appellees Lawrence Monroe and Russel T. Bransford (certificate of service dated 3/22/00) for summary affirmance. Response due by 4/4/00.
3/24/00	MOTION filed (5 copies) by Appellee Ayman Alouri (certificate of service dated 3/24/00) for summary affirmance. Response due on 4/6/00.
4/4/00	OPPOSITION filed (5 copies) by Appellant Patrick James Knowlton (certificate of service dated 4/4/00) to a motion for summary affirmance.
4/4/00	OPPOSITION W/ BOUND EXHIBITS (2 VOLUMES) filed (5 copies) by Appellant Patrick James Knowlton (certificate of service dated 4/4/00) to a motion for summary affirmance
4/10/00	MOTION LODGED (5 copies) by Federal Appellees' Lawrence Monroe, and Russel T. Bransford (certificate of mail service dated 4/10/00) to extend time to file a reply to the motion for summary affirmance until 4/25/00.
4/10/00	MOTION filed (5 copies) by Federal Appellees, Lawrence Monroe, Russel T. Bransford (certificate of service dated 4/10/00) for leave to file the lodged motion to extend time
4/11/00	REPLY filed (5 copies) by Appellee Ayman Alouri (certificate of service dated 4/11/00) to appellants' opposition to appellee's motion for summary affirmance
4/24/00	PER CURIAM ORDER filed granting the motion for leave to file, directing the Clerk to file the lodged

	motion to extend time, granting the motion to extend time, regarding the motion for summary affirmance. The Reply is now due April 25, 2000. Before Circuit Judges: Williams, Randolph, and Rogers.
4/24/00	PER ABOVE ORDER Federal Appellees, lodged motion to extend time
4/24/00	MOTION filed (5 copies) by Appellant Patrick James Knowlton (certificate of service dated 4/24/00) for reconsideration of the Per Curiam order filed this date granting appellee's motion to extend time to file a reply to the motion for summary affirmance. Response due by 5/8/00.
4/25/00	REPLY filed (5 copies) by Federal Appellees, Lawrence Monroe, and Russel T. Bransford (certificate of service dated 4/25/00) to the motion for summary affirmance
4/27/00	OPPOSITION filed [513602-11 by the Non-Federal Appellee Ayman Alouri (certificate of mail service dated 4/27/00) to appellant's motion for reconsideration
5/4/00	OPPOSITION filed (5 copies) by Federal Appellees Russell T. Bransford, and Lawrence Monroe (certificate of service dated 5/4/00) to appellant's motion to reconsider the order filed April 24, 2000 granting the enlargement of time to file reply to summary affirmance
5/5/00	REPLY filed [515528-11 (5 copies) by Appellant Patrick James Knowlton (certificate of service dated 5/5/00) to a response to the motion reconsideration
5/12/00	REPLY filed [516895-11 by Appellant Patrick James Knowlton (certificate of service dated 5/12/00) to Federal Appellees opposition to the motion for

Reconsideration

5/18/00	NOTICE filed by Appellee Ayman Alouri terminating the involvement of attorney Stephen J. Vaughan for Appellee Dr. Ayman Alouri. Certificate of service date 5/18/00.
6/27/00	PER CURIAM ORDER filed denying appellant's motion for reconsideration. It is FURTHER ORDERED that the motions for summary affirmance Be granted. [SEE THE ORDER FOR COMPLETE DETAILS]. The Clerk is directed to withhold issuance of the mandate pending disposition of any timely petition for rehearing. Before Judges: Williams, Ginsburg, Randolph.
7/27/00	PETITION for rehearing, PETITION for rehearing en banc (with 4 attached exhibits) (20 copies) filed by Patrick James Knowlton (cls dated 7/27/00).
9/13/00	PER CURIAM ORDER filed denying petition rehearing filed by Patrick James Knowlton . Before Judges Williams, Ginsburg, Randolph. [Entry Date: 9/13/00.
9/13/00	PER CURIAM ORDER, In Banc, filed denying suggestion rehearing en banc filed by Patrick James Knowlton Before Judges Edwards, Silberman, Williams, Ginsburg, Sentelle, Henderson, Randolph, Rogers, Tatel, Garland. *Circuit Judges Sentelle and Garland did not participate in this matter. [Entry Date: 9/13/00]

Appendix B **Proposed Second Amended Complaint (verified)**
Knowlton v. Edwards et al., CA 96-2467
Filed Oct. 21, 1998

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

PATRICK JAMES KNOWLTON)
2424 Pennsylvania Avenue, NW)
Washington, DC 20037,)
)
Plaintiff,)
)
v.)
)
ROBERT EDWARDS,)
Sergeant, retired)
United States Park Police)
Last known address:)
Park Police, Second District)
7300 MacArthur Boulevard)
Glen Echo, Maryland 20812,)
)
and)
)
JAMES C. BEYER)
Deputy Chief Medical Examiner)
Northern Virginia District) CA 96-2467
9787 Braddock Road) (JGP)
Suite 100)
Fairfax, Virginia 22032,)
)
and)
)
JOHN DOE PATHOLOGIST)
Assistant to Deputy)
Chief Medical Examiner)
Identity & address unknown,)

and

ROBERT F. BRYANT,
Deputy Director,
Federal Bureau of Investigation
J. Edgar Hoover Building
10th & Pennsylvania Avenue, NW
Washington, DC 20001,

and

LAWRENCE MONROE
Special Agent, retired
Federal Bureau of Investigation
8128 Blandsford Drive
Manassas, Virginia 22110,

and

SCOTT JEFFREY BICKETT
Address unknown,

and

JOHN DOE FBI LABORATORY TECHNICIAN
Federal Bureau of Investigation
J. Edgar Hoover Building
10th & Pennsylvania Avenue, NW
Washington, DC 20001,

and

RUSSEL T. BRANSFORD,
Special Agent,
Federal Bureau of Investigation
1900 Half Street, SW
Washington, DC 20535,

and)
)
AYMAN ALOURI)
2300 Pimmit Drive)
Apartment 704 West)
Falls Church, Virginia 22043,)
)
and)
)
ABDEL SALEM ALOURI)
5800 Quantrell Avenue)
Apartment 1511)
Alexandria, Virginia 22312,)
)
and)
)
JOHN DOE No. 1, through)
JOHN DOE No. 24, inclusive,)
)
Defendants.)
)

SECOND AMENDED COMPLAINT (10/98)
(Conspiracy to interfere with Civil Rights in violation of 42 U.S.C. § 1985(2), Obstructing justice; Intentional Infliction of Emotional Distress; Assault; Battery; Civil Conspiracy)

COMES NOW Plaintiff, Patrick James Knowlton, by and through counsel, and respectfully states:

Jurisdiction

1. This Court has jurisdiction over Plaintiff's claims for relief under 42 U.S.C. §§ 1985, 1986, as claims arising under the constitution and laws of the United States, pursuant to 28 U.S.C. §§ 1331, 1343(a)(1) and (a)(2). This Court has supplemental jurisdiction over all of Plaintiff's other claims for relief as state law claims so related to Plaintiff's claim in the action within the original jurisdiction that they form part of the same case or controversy.

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James Beyer, Medical Examiner:	¶¶ 42-54
John Doe pathologist:	¶¶ 44-46, 48
Robert Bryant, Deputy Director, FBI:	¶¶ 55-57
Lawrence Monroe, FBI agent, retired:	¶¶ 58-65, 71-74, 76-77
Scott Bickett:	¶¶ 66-70, 75
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John Does No. 1 through 24:	¶¶ 106-133, 138-154, 171-172
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Summary of case

2. This case arises from an overall conspiracy to obstruct justice in connection with federal investigations into the death of deputy White House counsel Vincent W. Foster.

3. Upon learning that Mr. Foster's body was found in Fort Marcy Park, Virginia, Plaintiff reported to authorities what he had seen in the park approximately 70 minutes before the discovery of Mr. Foster's body.

4. In April and May, 1994, Defendant Monroe, then an FBI agent detailed to the Office of regulatory Independent Counsel Robert Fiske, interviewed Plaintiff. Plaintiff repeatedly told Monroe that the Arkansas Honda he saw in the Fort Marcy lot, found parked in the same space as Mr. Foster's was later found, was older than Mr. Foster's 1989 Honda. And the two car color panels that Plaintiff identified to Monroe as being the same color as the car he had seen at the park correspond only to Hondas and only for the year models 1983 and 1984. Notwithstanding these facts, Monroe falsified Plaintiff's account and misreported that Plaintiff identified the car he saw as a "1988 to 1990" year-model, which coincided with Mr.

Foster's 1989 car. Because Mr. Foster was dead by the time Plaintiff visited Fort Marcy Park, Plaintiff's information refutes the official conclusion that Mr. Foster drove his car there.

5. Shortly after Plaintiff learned from a reporter that Defendant Monroe had falsified his account, Plaintiff's account of what he had witnessed at Fort Marcy and contradictory information from his FBI interview reports was published in the in October 22, 1995 edition of the *London Sunday Telegraph* newspaper.

6. On the same day that the *Telegraph* reached American newsstands, October 24, the Office of Independent Counsel, *In re: Madison Guarantee Savings & Loan*, prepared a subpoena for Plaintiff to testify before the Whitewater grand jury in this Court.

7. Two days after that subpoena was prepared, Defendant FBI Agent Russell Bransford served it. At the time of the service of that subpoena, Bransford was detailed to Mr. Starr's Washington, DC, Office. Bransford had been detailed to the Fiske probe.

8. Beginning the same day that Bransford served Plaintiff the secret grand jury subpoena, at least 24 Defendants and Bransford harassed and intimidated Plaintiff before he appeared to testify before the grand jury, and one Defendant harassed Plaintiff after he testified:

(1) Eleven or more Defendants on October 26, 1995;
(2) Twelve or more Defendants on October 27, 1995;
(3) Two or more Defendants on October 28, 1995;
(4) Defendant FBI Agent Bransford on October 30, 1995; and
(5) One Defendant on November 2, 1995.

9. Most of these incidents happened in a rapid and coordinated fashion, so that before one man departed, another was approaching. The objects of the harassment were twofold. First, to intimidate and warn Plaintiff in connection with his grand jury testimony and second, to destabilize Plaintiff and discredit his testimony before the grand jury. This technique of subjecting a witness to an overwhelming campaign of non-verbal harassment to

car, and sometime later drove into the Fort Marcy Park parking lot, and walked 700 feet up into the park. He is said to have then taken his own .38 caliber revolver, loaded with two high velocity cartridges, placed its barrel against his soft palate, and pulled the trigger, leaving an exit wound in the top of the back of his head about the size of a half-dollar.

It is time to review the evidence. You have never read or heard it before.

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The OIC's Report on the death of Vincent Foster is cited below as the "Report" or "OIC." Excerpts from it appear in Italics, except where they appear in the footnotes. An asterisk* appears next to all exhibits that were not generated by the federal government.

I. BACKGROUND

1. Introduction

Those who saw Mr. Foster most and knew him best, his friends and colleagues, disagree on whether he displayed signs of depression in the weeks preceding his death. Most failed to notice anything unusual,[6] a few did,[7] and a few changed their minds.[8]

---

[6] Exhibit 1, Report of FBI interview with Deputy Attorney General Webster Hubbell, April 14 & 15, 1994: "Hubbell said Foster was a great friend... He did not notice Foster acting differently in the days or weeks before his death... Hubbell said that he was not aware of any problems or difficulties Foster was experiencing prior to his death."

Exhibit 2, Report of FBI interview with Executive Assistant to Deputy Counsel Deborah Gorham, April 19 and 26, 1994: She viewed him as reserved, not depressed or unhappy. He would share a joke with others in the office, but was a very hard worker and would ask people "to keep it down" if their talking disturbed him. The only time he seemed to be more agitated than usual was when he was under time pressures. He had a very long fuse, so it was a rarity for him to show agitation... Even in hindsight, Gorham did not see anything in Foster's behavior which would indicate a distressed state of mind.

Exhibit 3, Report of FBI interview with Assistant Counsel at the White House Beth Nolan, June 7, 1994: "She saw him Monday, July 19, 1993 for just a few minutes and he did not seem distracted and handled the exchange normally. She said that she did not recall anybody ever remarking about Foster holding up or not holding up, and she did not herself notice any weight loss." Exhibit 4, Report of FBI interview with Special Assistant to the President for Legislative Affairs

Honda, Plaintiff was relieved to see that the man had returned to his own vehicle. The man was still staring fixedly at him.

Defendant Edwards

32. After the discovery of Vincent Foster's body, Defendant U.S. Park Police Sergeant Robert EDWARDS, who was the supervisor for the area that included Fort Marcy Park, responded to the park. EDWARDS was the third U.S. Park Police personnel to arrive at the body site, which was in a secluded area of the park and not observable from the direction of the park's parking lot. By the time EDWARDS had arrived at the body site at approximately 6:28 p.m., the six Fairfax County Fire & Rescue personnel had left the body site.

33. EDWARDS did not compose any report. Neither the FBI nor Park Police investigators interviewed him during the course of the first 16-day investigation, nor did the FBI interview him during the course of the five-month Fiske probe.

34. As EDWARDS walked from the parking lot towards the body, he walked past U.S. Park Police Officer Kevin Fornshill as Fornshill was walking back to the parking lot, whereupon EDWARDS instructed Fornshill to leave the park.

35. When EDWARDS arrived at the body site, only U.S. Park Police Officer Franz Ferstl was present.

36. Upon EDWARDS' arrival at the body site, EDWARDS took possession of the approximately seven Polaroid photographs that U.S. Park Police Officer Franz Ferstl had taken.

37. EDWARDS then ordered Ferstl to return to the parking lot.

38. Alone at the body site, and in possession of the only photographic evidence that would have exposed his tampering with the crime scene, EDWARDS:

(1) Turned Mr. Foster's head to the right, whereupon blood drained laterally from his mouth, toward the small caliber bullet wound in Mr. Foster's neck, and down onto his right shoulder; and

(2) Repositioned the head in the "straight up" position, leaving a contact stain caused by the face having touched the bloody right shoulder of the shirt.

39. EDWARDS' purpose in causing blood to spill toward the small caliber bullet wound in Mr. Foster's neck and down onto his right shoulder and collar was twofold:

(1) To obscure and camouflage the existence of the bullet wound in Mr. Foster's neck; and

(2) To make it appear that the blood on Mr. Foster's right side collar and right shoulder, which had in fact drained from the neck wound, had emanated from his mouth.

40. EDWARDS absconded with the Polaroid photographs that U.S. Park Police Evidence Technician Franz Ferstl had taken.

41. The forgoing actions of EDWARDS were made with specific intent to obstruct justice.

Defendants Beyer & Pathologist

42. Defendant Deputy Chief Medical Examiner BEYER rescheduled the autopsy from its initial scheduled time of 7:00 a.m., Thursday, July 22nd, to Wednesday, July 21, at 10:00 a.m. Because the timetable for the performance of the autopsy was moved up to occur just 16 hours after the body's discovery, Park Police Investigators assigned to the case, Cheryl Braun and John Rolla, who had inspected the body at Fort Marcy Park, did not attend because they had worked all night.

43. This failure of police Investigators assigned to the case to attend the autopsy prevented the exchange of information between BEYER and the Investigators during the performance of the autopsy, and was in violation of the standard operating procedures of both the U.S. Park Police and the Office of the Medical Examiner.

44. On July 21st, 1993, Defendant BEYER and Defendant PATHOLOGIST performed the autopsy on Mr. Foster. These Defendants began performing the autopsy well before its rescheduled time of 10:00 a.m., which was when Park Police personnel arrived to witness the autopsy. These Defendants' performance of a significant portion of the autopsy, without the presence of police witnesses, was in violation of the requirements of the Medical Examiner's Office and of the U.S. Park Police.

45. Before the rescheduled time of the arrival of Park Police personnel to witness the autopsy, Defendants BEYER and PATHOLOGIST removed Mr. Foster's clothing, scrubbed the body and x-rayed the head. And, before Sergeant Robert Rule, Detective James Morrissette and Identification Technicians Wayne Johnson and S.E. Hill arrived to witness the autopsy, BEYER and PATHOLOGIST removed Mr. Foster's tongue and portions of his soft palate.

46. The reason that BEYER and PATHOLOGIST removed portions of Mr. Foster's soft palate and tongue before the police autopsy witnesses arrived was to further the conspiracy by concealing:

(1) The fact that there was no entrance wound in the soft palate;
(2) To conceal the absence of gunshot residue on the soft palate; and
(3) To conceal the defect in the tongue which was caused when the bullet entered under the jaw line.

47. BEYER conducted still photography of Mr. Foster's body during the course of the autopsy, using both 35-mm and Polaroid cameras, but avoided any photography of the soft palate.

BEYER's purpose in failing to photograph the soft palate was to obscure the absence of a bullet wound in, and gunshot residue on, the soft palate.

48. Upon the arrival of U.S. Park Police to witness that portion of the autopsy which was still left to do, Park Police Sergeant Robert Rule asked BEYER the PATHOLOGIST's name. BEYER failed and refused to identify PATHOLOGIST, and PATHOLOGIST failed to identify himself.

49. Overt acts in furtherance of the conspiracy committed by BEYER in the preparation of his July 28, 1993 Report of Autopsy include fabricating the existence of:

(1) A perforating gunshot wound;
(2) An entrance wound in posterior oropharnyx;
(3) Powder debri on the soft palate; and
(4) An exit wound in the back of the head.

50. On March 31, 1994, BEYER was interviewed in connection with the Fiske probe's investigation into Mr. Foster's death by a Dr. Norman, Charles J. Stahl, M.D. and James L. Luke, M.D. During the course of that interview, BEYER committed overt acts in furtherance of the conspiracy by falsely reporting to these men:

(1) That the autopsy commenced at approximately 10:00 a.m.;

(2) The existence of an entrance wound at the central midline soft palate, 7 1/2 inches below the top of the head;

(3) The existence of "abundant gunpowder residue" on the soft palate;

(4) The existence of an inch by inch-and-a-quarter exit wound three inches below the top of the head;

(5) The absence of identifiable food material in the

stomach; and

(6) The absence of x-rays.

51. On July 13, 1994, BEYER testified on deposition, as follows:

Q. Was anyone present with you when you did the autopsy?
A. Park Police were present.

* * *

Q. What was your conclusion about the cause of death in this case?
A. Perforating gunshot to the head with entrance in the mouth, exiting the head.
Q. What was the path of the bullet?
A. Entered through the mouth, through the posterior pharnyx, went backward -- backward and upward with exit from the back of the head.

* * *

Q. Other than these two wounds, did you see any other wounds to the body?
A. None.
Q. Did you see any gunpowder burns on the body?
A. Tissue taken from the posterior oral pharynx or the back of the mouth contained powdered debris.

* * *

Q. Were any X-rays taken?
A. I had anticipated taking it, but our machine was not operating properly... I did the autopsy without an x-ray.

* * *

Q. Did you make any findings about position of

the weapon?

A. No, except that the weapon undoubtedly had the muzzle in the mouth at the time of discharge.

* * *

A. That's [presence of police] a requirement of my office. Any time you have a gunshot wound and particularly one that might be of a suspicious character, the police have to be present during the autopsy.

* * *

Q. Doctor, you mentioned that the X-ray machine wasn't working during this particular autopsy. Is there an x-ray machine in the room where autopsies are performed?

A. There's one available in the autopsy suite. We had a new machine. It had not been operating properly...

* * *

A. I looked at it [clothing], then gave it over to the police for their examination.

* * *

A. They [pathology panel] were provided with a copy of the autopsy, a copy of the microscopic slides and a copy of the photographs.

52. Overt acts in furtherance of the conspiracy committed by BEYER during the course of the July 13, 1994 deposition include falsely testifying that:

(1) The police witnessed the autopsy and withholding that PATHOLOGIST was present during the autopsy;

(2) There was a perforating gunshot to the head with an entrance wound through the posterior pharnyx

and an exit wound in the back of the head;

(3) There were no other wounds to the body;

(4) Tissue taken from the posterior pharnyx contained powder debris;

(5) The x-ray machine was not functioning properly and therefore no x-rays were taken;

(6) The muzzle of the weapon had been in the mouth at the time of discharge; and

(7) The clothing was given to the police upon its removal from the body.

53. On July 29, 1994, Defendant BEYER testified before the United States Senate Banking Committee:

> THE CHAIRMAN. Now, can you indicate how it was you were able to rule out any other cause of death and why you reached that conclusion, in terms of a short summary.
>
> Dr. BEYER. Mr. Foster had a perforating gunshot wound to the head with entrance in the mouth, exit in the back of the head. There was abundant powder debris in the mouth at the entrance site. Therefore, I concluded that this was essentially a contact perforating gunshot wound consistent with being self-inflicted.
>
> * * *
>
> The CHAIRMAN. You have given us the central reason I take it that you ascribe to why you concluded, or one of the main reasons you concluded this was a suicide. How were you able to rule out any possibility of an alternative cause of death?
>
> Dr. BEYER. There was no other evidence or trauma

to the body, and with the entrance wound located in the mouth the way it was, with abundant power debris, no trauma to the jaws, no trauma to the teeth, it would be my conclusion that this was self-inflicted.

* * *

Senator KERRY. Officer Rolla, you were asked earlier about this question of moving up the autopsy. It is agreed that the autopsy was moved up by a day. Is that correct, doctor?

Dr. BEYER. Well, as soon as I heard about the case, I had the body transported over, and we make every effort to do an autopsy within less than 24 hours if possible. Therefore, once I could get the body over, we proceeded with the autopsy.

Senator KERRY. But did you receive a message, doctor, asking you to try to proceed faster than normal?

Dr. BEYER. No, sir.

* * *

Senator KERRY. So irrespective of the timing, you are saying to us that the findings with respect to this autopsy are true and accurate and as you found them to be at the time. Is that correct?

Dr. BEYER. That is correct.

* * *

Senator FAIRCLOTH. All right, I will skip over to Dr. Beyer. Dr. Beyer, did you actually perform the autopsy on Mr. Foster?

Dr. BEYER. Yes, sir.

* * *

Senator FAIRCLOTH. You did it yourself?.

Dr. BEYER. [Nods in the affirmative.]

* * *

Senator FAIRCLOTH. Dr. Beyer, your autopsy report indicates that you took x-rays of Mr. Foster.

Dr. BEYER. I had anticipated taking them, and I had so stated on one of my reports.

Senator FAIRCLOTH. Your autopsy report says you took x-rays of Mr. Foster. Did you?

Dr. BEYER. No, sir.

Senator FAIRCLOTH. Why did you say you did if you didn't?

Dr. BEYER. As I indicated, I made out that report prior to actually performing the autopsy. We'd been having difficulty with our equipment, and we were not getting readable x-rays. Therefore, one was not taken.

Senator FAIRCLOTH. What was wrong with the x-ray machine?

Dr. BEYER. We had a new machine; we had new grids; and we had a new processor. We were having a number of problems.

Senator FAIRCLOTH. Why didn't you call Fairfax Hospital and arrange for a portable x-ray machine to be brought in for your use in such an important occasion?

Dr. BEYER. Because this was a perforating gunshot wound. If it had been a penetrating one, I would have gotten an x-ray of the head.

* * *

Senator FAIRCLOTH. Did you or the Medical Examiner's office have your servicing company come in and fix the x-ray machine?

Dr. BEYER. We were trying to remedy our problems. At that particular time we were not getting readable x-rays.

Senator FAIRCLOTH. When was it repaired?

Dr. BEYER. I have no x-rays in my files between July 6 to the 26. After July 26, 1993, we were getting x-rays.

Senator FAIRCLOTH. You mean for 20 days you ran a coroner's office and did autopsies without an x-ray machine?

Dr. BEYER. We don't take x-rays on very many cases. Primarily only gunshot cases.

Senator FAIRCLOTH. The Park Police officers who were present at the autopsy said you told them not only was an x-ray taken, you also told them the results of the x-ray. How do you account for the contradiction?

Dr. BEYER. I have no explanation because I did not take an x-ray.

Senator FAIRCLOTH. How did you tell the Park Police the results of an x-ray that you didn't take?

Dr. BEYER. I don't recall telling --

Senator FAIRCLOTH. Well, they do.

Dr. BEYER. I have no explanation.

* * *

Dr. BEYER. The equipment was not working, and I sawno need to take an x-ray.

Senator FAIRCLOTH. You saw no need to take an x-ray?

Dr. BEYER. No, sir.

54. Overt acts in furtherance of the conspiracy committed by BEYER in his July 29th, 1994 testimony before the United States Senate includes falsely testifying that:

(1) Mr. Foster had a perforating gunshot wound to the head with entrance wound in the mouth and an exit wound in the back of the head;

(2) There was "abundant powder debris in the mouth at the entrance site;"

(3) There was no other evidence of trauma to the body;

(4) He himself performed the autopsy on Mr. Foster;

(5) No x-rays were taken because the Office of the Medical Examiner's new machine had "a number of problems" and "difficulty with the equipment" resulting in "not getting readable x-rays," and that there was "no need to take an x-ray."

Defendant Bryant -

55. On July 22, 1993, at 8:46 p.m., the FBI Washington Metropolitan Field Office (WMFO) sent a Teletype to the Director of the FBI. Its subject was the Presidential staff assassination inquiry pursuant to 18 U.S.C. ¶ 1751, under which the FBI was mandated to exercise primary jurisdiction over the case. Sent less than 34 hours after the autopsy, and routed through the Violent Crimes Unit of the FBI's Criminal Investigation Division (VCU-CID), it was sent to confirm the contents of the previous day's telephone conversations between the WMFO and the VCU-CID. These telephone conversations occurred the day of the autopsy, while Defendant Robert BRYANT held the position of special agent-in-charge of the WMFO. The Teletype confirmed that the telephone conversations included the knowledge that the autopsy's "results include the finding... that [there was] no exit wound."

56. On August 10th, 1993, eighteen days after having sent the Teletype, BRYANT, then special agent-in-charge of the FBI's Washington, DC metropolitan field office, appeared with U.S. Park Police Chief Robert Langston and Justice Department spokesman Carl Stern to announce, inter alia, the outcome of the FBI's investigation into Mr. Foster's death. During that press conference, BRYANT stated:

> Ladies and gentlemen, I'm Bob Bryant, and I'm the special agent in charge of the Washington metropolitan field office field office of the FBI... [I]nitially, when there is a death of a high government

official that's covered by the assault or assassination statutes, the FBI as a matter of course establishes liaison with the police agency that has the primary lead, in this case the United States Park Police. We followed this case from the time we were notified until we were basically of the opinion... that this was a suicide...

* * *

Well, I think while we were with the United States Park Police, it became reasonably apparent that this was a suicide.

* * *

I think what we were trying to do here first was trying to find out if there was a violation, if he'd been harmed, you know, assaulted or assassinated or whatever. We concluded no...

* * *

I suggest to you that it's a very thorough investigation.

* * *

I'd be delighted to answer that question. Any time there is an assault or death under suspicious circumstances of an official covered by the assassination or assault of a federal officer statute, we immediately put with the primary or lead agency, in this case the United States Park Police, to determine the circumstances. As we became convinced that it was, in fact, a suicide, we subsequently started to withdraw...

57. These remarks made by BRYANT were untrue and BRYANT knew them to be untrue. They were overt acts made to further the cover-up. BRYANT's public pronouncement that the FBI "became convinced that it [Mr. Foster's death] was, in fact, a suicide," made eighteen days after the Teletype confirmed

BRYANT's knowledge that there was, in fact, "no exit wound," constitutes active participation by BRYANT in the cover-up.

Defendants Monroe & Bickett

58. In early April of 1994, MONROE, while serving in his capacity as FBI agent detailed to the Office of regulatory Independent Counsel under Robert B. Fiske, Jr., telephoned Plaintiff at his Virginia residence and requested an in-person interview. On April 15, 1994, MONROE interviewed Plaintiff at the Office of regulatory Independent Counsel. While showing Plaintiff six or more photographs of Mr. Foster's car, MONROE questioned Plaintiff over 15 times in various ways whether the Arkansas Honda he had seen, parked in the same space as Mr. Foster's Honda was later found, could have been Mr. Foster's 1989 silver-gray colored Honda. Plaintiff repeatedly responded, "No"; that the Honda he saw was older, of a different body shape, and was rust-brown in color.

59. At the conclusion of this interview, MONROE asked Plaintiff "not to go to the press" with his story. Plaintiff's information controverts the conclusion that Mr. Foster drove his 1989 silver-gray colored Honda to Fort Marcy Park, and MONROE's request that Plaintiff not publicize his information was made in furtherance of the cover-up.

60. On April 18th, 1994, MONROE composed an "FD-302" report of his April 15th interview with Plaintiff. Despite MONROE's failure to obtain an admission from Plaintiff that the Honda Plaintiff saw could have been Mr. Foster's 1989 silver-gray colored Honda, MONROE, knowingly and with specific intent to obstruct justice, falsified Plaintiff's account of the 1983 or 1984 rust-brown Honda Plaintiff had observed. MONROE's April 18th FD-302 of his interview with Plaintiff three days earlier willfully misreported that Plaintiff had:

(1) "[I]dentified this particular vehicle as a 1988 to 1990... Honda with Arkansas plates;" and

(2) "[R]eiterated his description of this Honda as a

1988-1990..."

61. Regarding the man in the blue-gray sedan who had stared at Plaintiff menacingly as Plaintiff pulled into his space, walked into the park and as he left the park, Plaintiff told MONROE that the man was wearing a button-down oxford-type short sleeve shirt, and that Plaintiff probably would be able to recognize the man in the future. Plaintiff also told MONROE that Plaintiff had not seen the license plates on the suspicious acting man's blue-gray sedan. Notwithstanding Plaintiff's account, MONROE falsely reported in his April 18th, 1994 FD-302 that:

(1) Plaintiff said he "could not further identify this particular individual nor his attire and stated that he would be unable to recognize him in the future;" and

(2) Plaintiff identified the blue-gray sedan as having "Virginia license plates..."

62. Regarding the contents of the mid-1980s brown Arkansas Honda, Plaintiff told MONROE that among the car's contents Plaintiff saw as he walked directly toward the driver's side door of the brown Honda and then along side of it, were two bottles of wine cooler on the back seat. Implicit in MONROE's report was that Plaintiff viewed the contents of the car through the back window and therefore could not have seen the contents of the car's back seat. MONROE reported that Plaintiff "...walked behind the brown Honda and peered inside..." Omitting the two wine cooler bottles that Plaintiff reported seeing on the back seat, MONROE reported that Plaintiff "could furnish no other descriptive data regarding the vehicle or for that matter the contents located within the vehicle."

63. The wine cooler bottles were in the car that Plaintiff observed, but not in Mr. Foster's Honda at the park. Mr. Foster's Honda arrived at the park after Plaintiff had left.

64. Soon after his April 15th, 1994 interview with MONROE, radio talk-show host G. Gordon Liddy requested

Plaintiff to appear for an on-air interview. In compliance with MONROE's request, Plaintiff declined.

65. In early May of 1994, MONROE telephoned Plaintiff at his Virginia residence and requested a second in-person interview. Plaintiff agreed. The two scheduled a meeting for 10:00 a.m., May 11th, 1994.

66. On May 10, 1994, the night before his second interview with MONROE, Plaintiff was driving his 1979 refurbished Peugeot 504 eastbound on Constitution Avenue, NW, accompanied by three adult passengers, one gentleman and two ladies. It was about 10:30 p.m. Defendant Scott Jeffrey BICKETT drove a 1988 Oldsmobile with Illinois license plates, accompanied by adult two male passengers, and was tailgating Plaintiff for about three blocks. Plaintiff, driving slowly and looking for a parking space, approached the intersection of 21st Street, saw a vacant parking spot, put on his directional, and stopped just past the spot. BICKETT pulled into the spot. Plaintiff got out of his car and said to BICKETT, "I was gonna park there." BICKETT said two words, then walked away, accompanied by the two other males who were passengers in the Oldsmobile. There was no other conversation between the occupants of Plaintiff's car and the occupants of BICKETT's car.

67. Plaintiff parked his car in front of BICKETT's, then left with his companions.

68. Immediately upon Plaintiff's vacating the area, BICKETT returned to the scene, took a tire iron from his Oldsmobile, smashed the Peugeot's four headlights, both taillights and struck the radiator with sufficient force to put a whole in it, causing over $3,700 in damages to Plaintiff's Peugeot.

69. About fifteen minutes after he had left his Peugeot, Plaintiff returned to where it was parked. A limousine driver, who is a retired District of Columbia Metropolitan Police Department captain, who had had witnessed the incident, told Plaintiff and Park Police Officers Hammond and McIntyre who had arrived by that time what BICKETT had done, and provided the Oldsmobile's

license plate number. Park Police assigned the case incident number 021327.

70. Plaintiff reasonably believes and therefore avers that BICKETT is employment by the Department of Defense with a Sensitive Compartmented Information security clearance, and that BICKETT has been briefed at FBI headquarters and has served at the direction of FBI personnel, as alleged above. Accordingly, Plaintiff alleges that BICKETT's wrongful conduct was at the direction of FBI personnel. The purpose of BICKETT's having committed these violent actions toward Plaintiff late in the evening before the morning of Plaintiff's second scheduled interview with MONROE was to cause Plaintiff to be in a deteriorated emotional state while being interviewed by MONROE. The conspirators sought to make Plaintiff more vulnerable to being manipulated by MONROE's haranguing to obtain from Plaintiff the sought-after admission that the Arkansas Honda Plaintiff saw in the park could have been Mr. Foster's 1989 year model Honda.

71. MONROE interviewed Plaintiff a second time on the morning following BICKETT's malicious attack on Plaintiff's car, while Plaintiff was still jarred and distressed. MONROE again repeatedly questioned Plaintiff whether the Honda he saw could have been Mr. Foster's 1989 silver-gray colored Honda. Notwithstanding his distraught emotional state, each time Plaintiff responded, "No." In a further attempt to obtain an admission from Plaintiff that the Honda he saw could have been Mr. Foster's, MONROE showed Plaintiff reports of other witnesses' interviews who had described the 1989 silver-gray colored Honda, and a 35-mm photograph of Mr. Foster's Honda. Mr. Foster's Honda arrived in the Fort Marcy lot after Plaintiff had left. After Plaintiff had read these other witness statements and viewed the 35-mm photograph, MONROE again repeatedly asked Plaintiff whether the Honda he saw could have been Mr. Foster's 1989 silver-gray colored Honda. Each time, Plaintiff's response was the same. "No."

72. MONROE then escorted Plaintiff to the FBI laboratory, where MONROE provided Plaintiff with brochures of late model Hondas. Upon inspection of these brochures, Plaintiff

told MONROE that the Hondas depicted in the brochures were too new to be of the same Honda Plaintiff had seen at Fort Marcy Park, and asked MONROE for brochures of older model Hondas. MONROE responded that brochures of older Hondas were unavailable. Plaintiff described the distinctive dull finish of the car he saw to FBI laboratory technician Dr. Frederick Whitehurst, who responded that he was familiar with the unusual finish Plaintiff described. Plaintiff was then directed to the section of the car color panels containing brown panels, whereupon Plaintiff picked out two car color panels, both of which were of the same color. These two panels were numbered 3499 and 3500. Whitehurst informed Plaintiff and MONROE that the panels Plaintiff had picked correspond to a color available only on Hondas and only available for the year models 1983 and 1984.

73. Whitehurst then suggested to MONROE that since there must be only a few 1983 and 1984 Hondas of that color registered in the state of Arkansas, MONROE should run a computer check at the Arkansas Department of Motor Vehicles. MONROE curtly responded something like, "Don't you worry, we're on top of all of this."

74. Toward the end of the interview, Plaintiff relayed to MONROE the facts of the malicious attack on his car late the night before and asked MONROE whether he could tell Plaintiff the identity of the perpetrator from the Olsmobile's license plate number. MONROE inexplicably told Plaintiff that he could do so only if Plaintiff could provide MONROE with the perpetrator's date of birth.

75. In the weeks-ensuing BICKETT's malicious conduct, Park Police told Plaintiff that the vandal could not be identified or located. On October 18, 1995, this license plate number was provided to a private investigator. The next day, the investigator called and provided the Oldsmobile owner's name, address, home telephone number, employer, and wife's name. Plaintiff provided this information to the Park Police, whereupon BICKETT confessed to Park Police Detective Frank A. Barwinzak. Despite repeated requests to do so, the Office of the United States Attorney for the District of Columbia failed and refused to prosecute BICKETT.

76. On July 29, 1994, Defendant MONROE testified before the United States Senate Banking Committee:

> Mr. MONROE. ...We also interviewed everyone known to have been in Fort Marcy Park on the afternoon or evening of Mr. Foster's death...
>
> * * *
>
> First, there can be no question that Vincent Foster committed suicide. Interviews with Mrs. Foster and other family members revealed that Mr. Foster was deeply depressed in the weeks prior to his death. Those close to him told us that in those final weeks he had lost considerable weight and was having trouble sleeping. He appeared exhausted most of the time and he began to take on a drawn and gray appearance. Family and friends stated that he appeared distracted and worried most of the time and that he became quite subdued. Coworkers, including former White House Counsel, Bernard Nussbaum, noted that his productivity at the White House began to decline. We learned that Mr. Foster was deeply disturbed by the fallout from the travel office matter over which the Counsel's Office was harshly criticized in the press. We also know that he was distressed about the criticism that he received in a series of editorials that appeared in *The Wall Street Journal.*
>
> * * *
>
> Telephone records reveal that in the early afternoon of July 16, Mr. Foster, as previously mentioned, did attempt to reach out for help by twice attempting to contact one of the psychiatrists but was unsuccessful. The list of psychiatrists was found in Mr. Foster's wallet

after his death. On Monday, July 19, a day before his death, he contacted his physician in Arkansas and informed him of his depression.

* * *

This was confirmed by an examination of microscopic slides taken during the autopsy which revealed a large quantity of gunpowder on the soft pallet tissue inside of his mouth. This indicates that the barrel of the weapon was essentially in contact with the soft pallet when fired.

* * *

The physical evidence further reveals that Mr. Foster pulled the trigger... This evidence leads to the inescapable conclusion that Mr. Foster committed suicide. The physical evidence makes it equally clear that the suicide occurred right where the body was found on the slope of the berm located in Fort Marcy Park.

* * *

Had the body been moved to Fort Marcy Park after his death, the Park Police would have found Mr. Foster's body and clothing far more bloody than the were at the scene.

* * *

Senator DODD. It's your conclusion, as has been stated, that Mr. Foster committed suicide. There's no doubt in any of your minds about that?

Mr. MONROE. No doubt.

* * *

Senator DODD. ...[W]ere there any "significant" irregularities in the Park Service Police's

investigation?

Mr. MONROE. Your question, Senator, had to do with the Park Police and the response that I have to that is we do not know of any significant irregularities.

* * *

Senator BENNETT. ...The FBI identified blond/light brown head hairs of Caucasian origin dissimilar to Mr. Foster's on several pieces of clothing. Has the FBI investigation determined the identity of those blond Caucasian head hairs?

Mr. MONROE. No, we have not, sir, and I'd be glad to respond why not. Basically for the following reasons, sir. There were three blond hairs found on articles of clothing, as you've said. Our objective, as I've mentioned before, was to find out how Mr. Foster died, why did he die, and whether Whitewater at all played any role. It was our professional judgment that trying to determine that hair would not lead us or advance us in this objective. And let me go one step further, if I could, sir. The source of this hair could have been boundless. It could have been obtained at work. There was a White House ceremony that morning. It could have been from his residence. It could have been from his automobile, which was used quite often by his children, during the autopsy, during the period of time that the clothing was in the possession of the U.S. Park Police, any blond-haired person at the death scene, and there's no way to determine whether or not those hairs were on those certain articles of clothing either on the day of his death or days previous to it. We were also very well aware, sir, that Mr. Foster's daughter, 21 year-old daughter, has blond hair.

* * *

Senator BENNETT. The second one is in the same category. I'm curious. The FBI identified carpet-type fibers of various colors. They contain red, dark pink wool fibers on various pieces of his clothing. Does the FBI have any idea where that came from? Was there any attempt made to match that with any carpet in his home, car, or office?

Mr. MONROE. No, sir, and for the same reasons I provided in response to your first question relative to the hairs. They were multiple colors. We had no way to match those particular carpets up, outside the fact that they most likely came from his residence or from his office, and if we had any knowledge of any other venue or location he might have been at, specifically the day of his death, we would have done it. So once again, Senator, nothing sinister whatsoever.

* * *

Mr. MONROE. No, I don't think so. I'd like to clarify it. In any death investigation, we had overwhelming evidence to reflect that it was a suicide...

77. The greater part of this testimony was false, was known by MONROE to be false, and constituted overt acts in furtherance of the cover-up. Contrary to MONROE's testimony:

(1) The FBI did not "interview everyone known to have been in Fort Marcy Park on the afternoon or evening of Mr. Foster's death," including:

(a) Defendant EDWARDS;

(b) "Volunteers" working on a trail;

(c) Two men seen in and around the 1983 or 1984 rust-brown Honda;

(d) The man in the blue-gray Japanese car seen by Plaintiff;

(e) Men seen getting dressed in the woods by paramedics; and

(f) A jogger;

(2) Those close to Mr. Foster did not report that "he had lost considerable weight" because he had in fact gained weight;

(3) Mr. Foster did not tell his physician that he was depressed;

(4) The microscopic slides did not reveal "a large quantity of gunpowder on the soft palate tissue inside of his mouth," rather they revealed the absence of any gunpowder;

(5) Defendant MONROE in fact knew of numerous "significant irregularities" during the course of the first 16-day investigation, including but not limited to:

(a) Polaroid photographs were not treated as evidence and many vanished;

(b) 35-millimeter crime scene photographs taken by an experienced U.S. Park Police Evidence Technician were reported to be of limited value, MONROE had viewed these photographs and knew they were clear;

(c) The first witness to discover the body told MONROE that Mr. Foster's palms facing up, contrary to the depiction in the official crime scene photographs;

(d) The Park Police officer who first responded to the body site radioed the death an "apparent suicide" without having seen the weapon;

(e) At least four witnesses saw a briefcase in a Honda in the lot, and that briefcase, if not the Honda, vanished;

(f) The crime scene was not secured and the driver of a car in the lot when the first officials arrived drove away without being identified;

(g) The Park Police knew that Mr. Foster was employed at the White House by 6:35 p.m. but reportedly failed to notify the Secret Service until around 8:30 p.m.;

(h) Two sets of keys, including those to Mr. Foster's car, were not found at the park;

(i) Mr. Foster's eyeglasses, with gunpowder on them, were found stems closed 19 feet below Mr. Foster's head in dense foliage, uprange from the bullet trajectory;

(j) A civilian park witness told the FBI that she was "positive" that her information reflected in the Park

Police report "was untrue;" and

(k) The lead Park Police Investigator "made the determination" that Mr. Foster's death was suicide before viewing the body;

(6) The "overwhelming evidence" indicated that the death was not, in fact, a suicide.

FBI Laboratory Technician(s)

78. When a revolver is fired and the bullet leaves the cylinder and enters the barrel, the internal pressure expels gasses, burning and unburned powder, and particulate and vaporized lead, referred to as "gunshot residue." The blast results in gunshot residue being vented through the "barrel-cylinder gap" at high speed, forming a ring perpendicular to the gun's barrel. As the residue escapes, it separates like spokes of a wheel.

79. When these residues become deposited on a surface, they form, roughly speaking, a line, like the lines of deposits left on both of Mr. Foster's index fingers and the web between his right thumb and index finger. This proves that, when the shot was fired, the web between his right thumb and index finger, and both of his index fingers, were in the gunshot residue trajectory of the cylinder-blast from the cylinder-barrel gap.

80. FBI LAB's May 9, 1994 Report 40324038 S/D QV, page 7, ¶¶ 1 and 3, state:

> Apparent gunshot residue (smoke) was noted in the Q60, Q112, Q125, Q126, photographs on the side of the right forefinger and web area of the victim's right hand. These residues are consistent with the disposition of smoke from the muzzle blast or cylinder blast when the K1 revolver is fired using ammunition like that represented by specimens Q1 and Q2 when this area of the right hand is positioned

near the front of the cylinder or to the side of and near the muzzle.

The position of the victims [sic] hand in the Q77, Q79 and Q97 photographs relative to the revolver and the apparent disposition [sic] of gunshot residue (smoke) visible in the Q60, Q112, Q125, Q126 and Q127 photographs is consistent with, but not limited to, the following position of the right hand during firing: Pulling the trigger of the K1 revolver with the right thumb, single or double action, or having the right thumb inside the trigger guard with the web area and side of the right forefinger near the front of the cylinder.

81. Because the muzzle was officially in Mr. Foster's mouth when the shot was fired, FBI LAB's statement that the gunshot residue is "consistent with... [his] right hand [being] positioned... to the side of and near the muzzle" is inapplicable.

82. Had the revolver been fired with the right thumb, gunshot residues could not have been deposited on the "web area" between the right thumb and index finger because the web would not have been "to the sides of the front cylinder." Mr. Foster's right thumb could not have been on the trigger at the same time as his right thumb-index finger web was in the trajectory of the gunshot residue from the cylinder-blast. The fact that the web between the thumb and right index finger was "near the front cylinder" eliminates the possibility of Mr. Foster's having fired the K1 revolver with his right thumb. If the revolver had been fired with the right thumb, the web area would have been completely blocked from any barrel-cylinder blast, regardless of how the revolver is held.

83. FBI LAB also failed to note that "pulling the trigger of the K1 revolver with the right thumb... [in the] double action" mode is a highly improbable scenario because the required grasp would require holding the gun in a way which would prevent the cylinder from turning.

84. The foregoing ¶¶ 1 and 3 of page 7 of FBI LAB's May 9, 1994 Report 40324038 S/D QV was made with the intent to conceal that Mr. Foster could not have held the weapon when it was discharged, and constitutes an overt act in furtherance of the conspiracy to obstruct justice.

85. Because Mr. Foster could hold a basketball palm-down with one hand, the length of his right index finger approached six inches in length from the top of his fingertip to the web area, and the third (last) phalange of his index finger was around an inch long. Because gunshot residue "extend[ed] from the distal joint" of the right index finger into the web area between it and his right thumb, the length of the gunshot residue deposit was over five inches long. Taking into account the absence of residue being expended from the upper part of the weapon's frame (where the cylinder pin "masks" gunshot residue from emanating from the weapon), the minimum distance that Mr. Foster's fingers could have been from the center of the barrel when cylinder blast occurred, using the five-inch arc, is calculated as over two inches away, perpendicular from the barrel. The closer his hands were to the cylinder, the shorter length of the residue deposit. Had he been holding the weapon with his index finger, the line of deposits would have been less than two inches long. Mr. Foster could not have been grasping the gun with his right index finger when it was discharged.

86. FBI LAB's May 9, 1994 Report 40324038 S/D QV, page 7, ¶ 1 only describes cylinder blast. This Defendant failed to note that gunshot residue was also found on Mr. Foster's left index finger. His description that the residues are "consistent with the this area," when the "right hand" is "near the front of the cylinder" inadequately describes the coverage and length of the gunshot residue deposits on Mr. Foster's right index finger and the web between it and his right thumb.

87. FBI LAB's failure to properly describe the gunshot residue patterns was deliberate and made with the willful and specific intent to conceal the fact that Mr. Foster could not have fired the K1 revolver with his right thumb.

88. The only possible way to have gunshot residue deposited on the right index finger and web area and left index finger, a sufficient distance from the barrel-cylinder gap to provide the five-inch length of the residue pattern, is if the weapon was fired by the hand of another. The gunshot residue patterns found were made when Mr. Foster held his hands with the palms facing the revolver's cylinder, consistent his hands being in a defensive posture.

89. FBI LAB's concealing that at the time of the shot, Mr. Foster's index fingers could not have been in contact with the weapon and that his hands were in a defensive posture, were overt acts in furtherance of the overall conspiracy and cover-up of the facts of Mr. Foster's death.

90. Consistent with the absence of the official mouth entrance wound, there was no gunshot residue found in Mr. Foster's mouth. Consistent with the absence of gunshot residue found in Mr. Foster's mouth, the Virginia Division of Forensic Science found no gunshot residue on the five microscopic slides containing 13 sections of the soft palate that Defendant BEYER had falsely reported contained "large quantities of black foreign material." Consistent with the Virginia Division of Forensic Science's finding, FBI LAB's May 9, 1994 Report 40324038 S/D QV, page 8, ¶ 5, noted:

> No Ball-shaped gunpowder was identified in the tissue samples from the inside of Foster's mouth, when examined at the Office of the Medical Examiner for Northern Virginia.

91. To conceal the absence of the official mouth entrance wound, and in furtherance of the overall conspiracy to conceal the true facts of Mr. Foster's death, FBI LAB in its June 13, 1994 Report No. 40525002 S QV, page 2, ¶ 3, falsely reported that the Virginia Division of Forensic Science's finding was consistent with the "suicide finding in which the muzzle of the firearm was in Foster's mouth":

> It was previously reported that no ball-shaped gunpowder was identified on the tissue samples from

> the inside of Foster's mouth, when examined at the Office of the Medical Examiner for Northern Virginia. Inasmuch as these tissue samples were prepared in such a way which is not conducive to retaining unconsumed gunpowder particles, these findings are not unexpected... The FBI Laboratory findings are not inconsistent with the Pathologists' Report relating to a suicide finding in which the muzzle of the firearm was in Foster's mouth.

92. Defendant BEYER's report of having found "abundant powder debris" and "abundant gunpowder residue" on the soft palate is the cornerstone of the official conclusion. Defendant FBI LAB sought to explain how the "abundant powder debris" on the soft palate could have vanished between the time that BEYER reportedly observed it and someone else at the Office of the Medical Examiner microscopically examined the thirteen tissue samples from the soft palate. BEYER prepared the tissue samples to be tested for the presence of "powder debris," and FBI LAB's declaration that the "tissue samples were prepared in such a way which is not conducive to retaining unconsumed particles" was false and was made in furtherance of the conspiracy.

93. FBI LAB's May 9, 1994 Report 40324038 S/D QV, page 6, ¶ 5, and his June 13, 1994 Report No. 40525002 S QV, page 2, ¶ 1, respectively, state:

> When the Q8 shirt was received in the Laboratory, the resultant color reaction for a positive reaction for the sodium rhodizonate test was apparent... consistent with muzzle blast or cylinder blast from a revolver like the K1 revolver using ammunition like specimens Q1 and Q2.
>
> Issue No. 1 in the ALSO SUBMITTED note relates to the positive color reaction for vaporized lead and fine particulate lead which was noted on the front of the Q8 shirt... The presence of gunshot residues... are consistent with the cylinder blast or the muzzle blast

which would be produced if the K1 revolver was fired in close proximity to the front of the Q8 shirt.

94. A positive sodium rhodizonate test, which detects vaporized lead or very fine lead particles, would be consistent with the firing of any weapon using any lead bullet, not just "a revolver like the K1 revolver using ammunition like specimens Q1 and Q2." The foregoing excerpts from FBI LAB's reports, intended to mislead the reader into the false impression that the official death weapon caused Mr. Foster's death, was made in furtherance of the overall conspiracy to hide the true facts of Mr. Foster's death.

95. FBI LAB's May 9, 1994 Report 40324038 S/D QV, page 6, ¶¶ 1 and 2, respectively, state:

> Specimen Q2 is a .38 Special caliber cartridge case of Remington manufacture which was identified as having been fired in the K1 revolver. Several pieces of ball smokeless powder were removed from the Q2 cartridge case in the laboratory.
>
> Specimen Q1 is a .38 Special caliber cartridge of Remington manufacture which is loaded with a round-nosed lead bullet. The Q1 cartridge and Q2 cartridge case are similar in caliber type and manufacturer and bear similar "R-P .38 Spl HV" headstamps. The bullet was removed from the Q1 cartridge in the laboratory.

96. The K1 revolver is a high-powered weapon and was loaded with Remington "HV" (high velocity) cartridges, higher than the standard velocity cartridge. Remington has never used Ball Smokeless Powder in the manufacture of its R-P .38 Spl HV ammunition. FBI LAB concealed that Remington has never used Ball Smokeless Powder in the manufacture of its R-P .38 Spl HV ammunition, in furtherance of the conspiracy.

97. Ball Smokeless Powder is consistent with small caliber ammunition such as .22 caliber ammunition manufactured by Winchester. It is also commonly used to reload ammunition.

98. FBI LAB also failed to reveal what type of powder was in the Q1 cartridge case after the bullet was removed.

99. FBI LAB's May 9, 1994 Report 40324038 S/D QV, page 13, ¶ 4, states:

> The 35mm color negatives (Q32) were examined to locate frames for photographic enhancement. The selected frames (5, 6, 7, 8, 9, 10, 17, 18) were printed using Kodak Ultra print paper to produce maximum image detail. Due to the negatives having been underexposed during the photographic process, limited detail could be extracted from each of the selected frames.

100. FBI LAB's report that "limited detail could be extracted from each of the selected frames" was false known to be false, and was made in furtherance of the cover-up to conceal the existence of photographic evidence which would have exposed the conspiracy. The FBI "was able to, in fact, enhance the photographs" and they – "looked good," according to U.S. Park Police Evidence Technician Peter Simonello, who had taken the photographs.

Witness Tampering

101. On October 13, 1995, Ambrose Evans-Pritchard, the Washington DC Bureau Chief of the *London Sunday Telegraph,* who Plaintiff had never heard of, contacted Plaintiff and showed him the then publicly available FD-302 Reports of his statements prepared by MONROE, which Plaintiff had not seen. Plaintiff realized for the first time that Monroe had falsified his account of the car and other facts he had recounted during his FBI interviews, and Plaintiff told Evans-Pritchard the true facts of his visit to Fort Marcy Park.

102. On October 22, 1995, a newspaper article entitled "Death in the Park: Is this the killer?" appeared in the *London Sunday Telegraph*. The article reported that Plaintiff was in Fort Marcy Park the day Vincent Foster's body was discovered. An artist's sketch of a man Plaintiff saw in the Park appeared with the article, which was subtitled, "Foster mystery: a key witness ignored by the FBI reveals the face." That article states in part:

> When the *Sunday Telegraph* showed him police judicial summaries of his testimony - which he had not seen - he was stunned, saying his statements have been falsified...
>
> The other [car in the parking lot of Fort Marcy Park] was a blue sedan, possibly a Japanese make. There was a man in his twenties sitting inside it with a manicured appearance. He lowered his window and gave Knowlton a threatening look...
>
> His FBI statement says that Knowlton "could not further identify this individual and stated that he would be unable to recognize him in the future." "That's an outright lie," he said, angrily. "I want it on the record that I never said that. I told them I could pick him out of a line-up." The *Sunday Telegraph* asked if he would be willing to help with an artist's sketch of the suspect. He agreed... The sketch above was drawn by an experienced police artist...
>
> Knowlton's statement says that the blue sedan had Virginia license plates. "That's not true," he said.
>
> They showed him a photograph of... a Honda with Foster's Arkansas number plates. It was a newer model Honda, with a gloss paint, fancy wheels, and a dent in the back -- a totally different car. "They went over it about 20 times, telling me that this was Foster's car," said Knowlton. "But I was quite

adamant about it. I saw what I saw, and I wasn't going to change my story."

Starr's investigators have never talked to Knowlton. The federal grand jury has never summoned him to give sworn testimony...

103. Two days later, on Tuesday, **October 24, 1995**:

(1) The October 22, 1995 issue of the *London Sunday Telegraph*, containing the foregoing article, appeared on American newsstands;

(2) The Office of Independent Counsel under Kenneth Starr prepared a subpoena for Plaintiff to testify before the Whitewater grand jury; and

(3) That subpoena was delivered to FBI agent Russell T. BRANSFORD for service on Plaintiff.

104. Two days after that, on **Thursday, October 26, 1995**, BRANSFORD served the subpoena on Plaintiff to appear and testify before the Washington, DC, Whitewater grand jury six days later, Wednesday, November 1. At the time of the service of the subpoena, BRANSFORD gave Plaintiff his business card and said to Plaintiff, "Call me if you have any problems."

105. Having failed to obtain an admission from Plaintiff that the car he saw could have been Mr. Foster's, MONROE falsified his FD-302 Report of Plaintiff's statements to conceal Plaintiff's account. When the story reporting that MONROE had falsified Plaintiff's account was published, Defendants conspired and schemed to neutralize Plaintiff's statements, both made and anticipated. Defendants undertook to subject Plaintiff to an overwhelming campaign of harassment and intimidation to neutralize any damage Plaintiff could do to the ongoing conspiracy to hide the circumstances of Mr. Foster's death, by:

(1) Intimidating and warning Plaintiff in connection with his grand jury testimony; and failing that, by

(2) Destabilizing Plaintiff and discrediting Plaintiff's testimony before the grand jury.

This *modus operandi* is known in federal intelligence and investigative agencies.

Harassment & intimidation

106. Beginning later the **same day AGENT BRANSFORD served Plaintiff the subpoena, Thursday, October 26, 1995, which subpoena was known only to the FBI and the Office of Independent Counsel**, Defendants, and each of them, began a campaign of harassment, intimidation, terror, and psychological attack upon Plaintiff, committing overt acts intended to accomplish the objects of the subsidiary conspiracy, to wit, to deter Plaintiff from testifying freely, fully and truthfully before the grand jury by intimidating and warning him, and to destabilize and discredit Plaintiff. Overt acts undertaken by Defendants against Plaintiff in furtherance of the conspiracy included but was not limited to overt acts recounted below.

107. On October 26, 1995, Plaintiff discussed by telephone with his girlfriend (hereinafter "Kathy") their plans for that evening. Plaintiff and Kathy agreed to walk from Plaintiff's residence to the Dupont Circle neighborhood CVS and then to a particular restaurant in that neighborhood.

108. During the evening of October 26, 1995, Plaintiff and Kathy walked on the public street. Defendant ONE walked toward them while constantly staring directly at Plaintiff's face. Kathy directed Plaintiff's attention to ONE's behavior. ONE directed a fierce glare into Plaintiff's eyes as he approached, and continued this uninterrupted glare as he walked past Plaintiff. After they passed, ONE stopped and continued to watch Plaintiff as he raised his left wrist to his mouth and spoke into his coat sleeve.

109. Within five seconds after Plaintiff's contact with ONE, Defendant TWO walked directly toward Plaintiff while directing a constant fierce glare at Plaintiff's face, then cut to Plaintiff's left, turned his head toward Plaintiff, past Kathy, all the while continuously glaring into Plaintiff's eyes.

110. Approximately twenty seconds after Plaintiff's contact with TWO, Defendant THREE approached them from ahead, and while passing on Plaintiff's right, glared fiercely into Plaintiff's eyes, and continued to do so as he passed.

111. Approximately four minutes after Plaintiff's contact with THREE, Kathy waited in line at the CVS pharmacy counter while Plaintiff sat in a nearby chair. During the five minutes Defendant FOUR stood in line behind Kathy, FOUR did not face forward, but rather stood facing Plaintiff and continuously glared fiercely at Plaintiff as FOUR moved up in line. When Kathy handed her prescription to the pharmacist, FOUR walked away.

112. Approximately four minutes after Plaintiff's contact with FOUR, Defendant FIVE stood on the street approximately 50 feet away, continually staring in Plaintiff's direction. FIVE walked toward Plaintiff and directed a fierce glare into Plaintiff's eyes as he approached and passed.

113. As a direct and proximate result of the continuous and persistent physical displays of Defendants ONE through FIVE, inclusive, Plaintiff reasonably believed the entire course of conduct was a single continuing action, and reasonably feared the use of harmful physical force by Defendants to cause severe bodily harm to Plaintiff and to Kathy.

114. Approximately one minute after Plaintiff's contact with FIVE, as Plaintiff and Kathy walked northbound, Defendant SIX stood military "at-ease" style on the corner glaring at Plaintiff as they approached. As Plaintiff reached the corner, SIX pivoted on one foot, keeping his military-type "at-ease" stance while glaring fiercely at Plaintiff, then followed Plaintiff about three feet behind him, the

length of the block. SIX came from behind and overtook Plaintiff and Kathy on their right while continually glaring at Plaintiff, again assumed the military-type "at-ease" stance and continued to glare fiercely at Plaintiff.

115. As a direct and proximate result of the continuous and persistent physical displays of ONE through SIX, inclusive, Plaintiff reasonably concluded the entire course of conduct of ONE through SIX was a single continuing action, and as SIX followed three feet behind him, Plaintiff reasonably feared the imminent use of harmful physical force by SIX. Plaintiff's emotional distress was so extreme that he felt physically sick and his legs felt rubbery.

116. At this point in time, one of the objects of Defendants' conspiracy was realized: Plaintiff reasonably concluded that this bizarre continuing harassment and intimidation was related to the subpoena to testify before the grand jury in the US District Court for the District of Columbia, served earlier that day.

117. Simultaneously with Plaintiff's contact with SIX, Defendant SEVEN paced back and forth about 50 feet ahead. SEVEN constantly glared at Plaintiff before, during and after Plaintiff and Kathy passed.

118. Simultaneously with Plaintiff's contacts with SIX and SEVEN, Defendant EIGHT walked directly toward Plaintiff while constantly glaring at him. EIGHT passed on Plaintiff's right and purposely brushed against him while constantly glaring fiercely directly into his eyes, and continued to glare at Plaintiff after he passed.

119. EIGHT'S physical contact with Plaintiff was an offensive, harmful, offensive touching. Plaintiff suffered severe emotional distress. He reasonably feared the imminent use of harmful physical force by Defendants to cause severe bodily harm to himself and to Kathy, and was becoming increasingly distraught.

120. Simultaneously with Plaintiff's contacts with SIX and EIGHT, Defendant NINE stood on the northwest corner of R Street and Connecticut Avenue.

121. The simultaneous harassment by SIX, EIGHT and NINE, immediately following the back-to-back harassment of ONE through SIX, inclusive, caused Kathy extreme emotional distress. She became panic-stricken and struggled to keep from crying. Plaintiff feared for Kathy as well as himself.

122. As soon as Plaintiff and Kathy began to cross the street at the intersection, NINE, while continually staring at Plaintiff, crossed the street so that he reached the corner at the same time as Plaintiff. Plaintiff and Kathy walked arm-in-arm southbound, whereupon NINE walked southbound to the left and three feet abreast of Kathy while looking over Kathy and directly at Plaintiff's face. Plaintiff and Kathy increased their pace, whereupon NINE also increased his pace. After Plaintiff was ahead of NINE, Kathy and Plaintiff stopped in front of a restaurant window. NINE passed by slowly while continuously glaring at Plaintiff's face, stopped three doors down, and intermittently looked to his right at Plaintiff. Plaintiff and Kathy resumed walking southbound, whereupon NINE walked southbound while looking back at Plaintiff every few seconds. Plaintiff and Kathy slowed their pace almost to a stop. NINE did the same. Plaintiff and Kathy stopped. NINE stopped and again looked at Plaintiff and Kathy every few seconds.

123. As NINE walked abreast of Plaintiff while glaring directly at him, Plaintiff again felt his legs become rubbery as he continued to suffer extreme emotional distress from the fear of imminent use of harmful physical force by NINE.

124. As Plaintiff and Kathy walked southbound approximately ten minutes after Plaintiff's contact with NINE, a southbound car driven by Defendant TEN proceeded past them very slowly. TEN pulled the car to the curb about a half-block ahead of them, exited the car, and walked toward Plaintiff and Kathy. TEN stopped then looked at them. As Plaintiff approached, TEN walked to a point about 30 feet south and glared intensely at Plaintiff as he

passed. After Plaintiff and Kathy proceeded about another 75 feet, TEN opened and reached inside the car's passenger door and pulled out a telephone or walkie-talkie and spoke into it while looking in Plaintiff's direction.

125. When TEN reached inside the passenger's side door of the car, Plaintiff reasonably believed TEN might be retrieving a gun, and Plaintiff and Kathy again reasonably entertained thoughts they might be harmed.

126. Approximately fifteen minutes after Plaintiff's contact with TEN, Plaintiff and Kathy sat in the downstairs dining area of a restaurant, whereupon Defendant ELEVEN stood in the mall area looking directly at them for approximately one minute. About three minutes later, ELEVEN walked down the stairs and through the dining area, where he slowed his pace while staring directly at Plaintiff. About fifteen seconds later, ELEVEN walked back through the dining area and again slowed his pace and stared directly at Plaintiff, then proceeded back up the stairs. Approximately five minutes later, ELEVEN reappeared in the mall area staring down at Plaintiff.

127. On **Friday, October 27th, 1995**, the day following Plaintiff's contacts with Defendants ONE through ELEVEN, the next time Plaintiff went out in public, at around 9:30 a.m., Plaintiff and Kathy walked northbound. A northbound black Nissan Altima, bearing a Maryland license plate, with Defendant TWELVE driving and Defendant THIRTEEN in the passenger's seat, drove by very slowly. TWELVE and THIRTEEN stared directly at Plaintiff. Approximately one minute later, the car came back southbound, slowed when it reached Plaintiff, whereupon TWELVE and THIRTEEN again stared directly at Plaintiff.

128. Upon information and belief, Plaintiff avers that the car occupied by Defendant TWELVE and Defendant THIRTEEN was a federal government vehicle.

129. The same day of Plaintiff's contacts with TWELVE and THIRTEEN, October 27th, 1995, shortly before 1:00 p.m.,

Christopher Ruddy (hereinafter "Ruddy") visited Plaintiff at Plaintiff's apartment. At the time, Plaintiff did not know Ruddy and was unfamiliar with Ruddy's work. Plaintiff and Ruddy walked eastbound. It was the next time Plaintiff had ventured out in public. Approximately two minutes after they left Plaintiff's building, Defendant FOURTEEN crossed the street so that they all reached the corner at the same time. FOURTEEN glared at Plaintiff, raised his eyebrows and from the waist pointed his finger at Plaintiff as if to say "gotcha." FOURTEEN then walked on. Ruddy approached FOURTEEN, produced his journalist ID, and spoke to FOURTEEN, whereupon FOURTEEN introduced himself as "Joe Colter," said he had worked at the White House, a World Bank organization, as an advisor to Bill Clinton, and currently works for an international technology business.

130. FOURTEEN reintroduced himself and shook Plaintiff's hand while saying, "I didn't hear your name." Plaintiff said "Patrick Knowlton," whereupon FOURTEEN gave Plaintiff's hand a hard squeeze and while leaning forward and glaring into his eyes, said, "Nice to meet you, Mr. Knowlton."

131. Plaintiff reasonably understood FOURTEEN's pointing his finger as if to say "gotcha" as a direct threat of harm. When FOURTEEN spoke to Plaintiff, Plaintiff reasonably believed that FOURTEEN's purpose for stopping was to show Plaintiff that FOURTEEN knew exactly who he was. Plaintiff experienced severe emotional distress and felt and appeared physically ill.

132. Simultaneously with Plaintiff's conversation with FOURTEEN, Defendant FIFTEEN watched from his position standing on the sidewalk about sixty feet away. FIFTEEN approached and, while ignoring FOURTEEN and Ruddy, stared directly at Plaintiff's face for about thirty seconds. FIFTEEN then left.

133. When FIFTEEN approached, Plaintiff became extremely distressed that FOURTEEN and FIFTEEN intended to assault Plaintiff.

134. Approximately thirty seconds after Plaintiff's contacts with FOURTEEN and FIFTEEN, as Ruddy and Plaintiff continued walking around Washington Circle, a white Honda bearing Virginia license plates number NY 7534 stopped in a no-parking zone in the northbound lane of 23rd Street, at Washington Circle. Defendant AYMAN ALOURI drove the car. Defendant ABDEL ALOURI occupied the passenger's seat. AYMAN ALOURI and ABDEL ALOURI continuously stared in Plaintiff's direction as Plaintiff crossed in front of the car and proceeded around the circle. AYMAN ALOURI drove the car very slowly onto the circle and past Plaintiff while ABDEL ALOURI continuously glared at Plaintiff. The car went around the circle, out of sight. Seconds later the car approached them from behind and drove slowly past as both AYMAN ALOURI and ABDEL ALOURI glared at Plaintiff. The car stopped about sixty feet ahead, whereupon AYMAN ALOURI and ABDEL ALOURI adjusted the car's mirrors to watch Plaintiff. Ruddy and Plaintiff walked in the direction of the car and observed the license plate just before AYMAN ALOURI drove the car through a red light and sped away.

135. When AYMAN ALOURI and ABDEL ALOURI circled back and came alongside them, Plaintiff was again fearful of being in danger of imminent harmful physical force.

136. License plate NY 7534 was registered to a blue Honda owned by AYMAN ALOURI, but the car Plaintiff observed on October 27, 1995, to which plate NY 7534 was affixed, was white in color. AYMAN ALOURI had removed his plate and affixed it to a different car.

137. In August of 1996, during the time when Plaintiff was publicizing the facts of his case, in a further effort to hide his wrongful participation in the conspiracy, Defendant AYMAN ALOURI reported to the Virginia Department of Motor Vehicles that he had "lost" license plate numbered NY 7534. On August 20, 1996, the Department of Motor Vehicles issued Virginia plate number ZJG 4219 in its place.

138. Approximately thirty seconds after Plaintiff's contact with AYMAN ALOURI and ABDEL ALOURI, as Plaintiff and Ruddy continued eastbound, Defendant SIXTEEN approached while staring directly at Plaintiff's face as he passed. SIXTEEN then walked ahead of Plaintiff and Ruddy. As Plaintiff and Ruddy walked slowly for the next half block, SIXTEEN looked back at Plaintiff every few seconds.

139. As a direct and proximate result of the continuous and persistent physical displays of the aforementioned eighteen Defendants, Plaintiff reasonably concluded the entire course of conduct of the Defendants was a single continuing action, reasonably feared the imminent use of harmful physical force, and suffered extreme emotional distress. He felt overwhelmed, and again felt physically sick.

140. Simultaneously with Plaintiff's contact with SIXTEEN, as Plaintiff approached the middle of the block, Defendant SEVENTEEN passed them on Ruddy's left while staring at Plaintiff. When SEVENTEEN got about five paces in front of them, Ruddy approached him and tried to speak to him, whereupon SEVENTEEN walked into children's health clinic.

141. As Plaintiff and Ruddy continued to walk eastbound, SIXTEEN stood on the sidewalk about 60 feet ahead looking in their direction. SIXTEEN then resumed walking eastbound ahead of them, then turned right on 21st Street. Plaintiff and Ruddy followed as SIXTEEN walked eastbound in front of the 2000 Penn Mall.

142. As Ruddy and Plaintiff entered that block, Defendant EIGHTEEN walked directly toward Plaintiff while giving Plaintiff a constant purposeful glare. EIGHTEEN passed Plaintiff on his right, continuously glaring at him.

143. Five minutes later, as Plaintiff and Ruddy exited the 2000 Penn Mall, SIXTEEN and EIGHTEEN stood conversing 50 feet to their right. EIGHTEEN looked toward Plaintiff and Ruddy, and began walking toward them. SIXTEEN then raised his left wrist to his mouth and spoke into his coat sleeve and crossed 20th Street.

Ruddy and Plaintiff then followed SIXTEEN down a set of stairs into a delicatessen, where Ruddy approached SIXTEEN and asked him if he was with a federal law enforcement agency. SIXTEEN replied, "Something like that," and walked away.

144. As Plaintiff neared the steps out of the delicatessen, Defendant SIX stood at the top of the stairs staring down at Plaintiff. As Plaintiff climbed the steps, Defendant SIX descended the steps past Plaintiff while constantly staring fiercely at him.

145. When Plaintiff recognized SIX from the day before, he suffered severe emotional distress from the firm belief that the entire course of conduct of all Defendants was a single continuing action. As SIX descended the steps past him, Plaintiff reasonably feared the imminent use of harmful physical force, suffered further emotional distress, and again felt physically sick.

146. Approximately three minutes later, Plaintiff exited the building and sat down alone at a sidewalk table and tried to regain his composure, whereupon Defendant NINETEEN pushed Plaintiff's chair from behind, and walked past him while glaring. As Ruddy exited the building, Plaintiff approached him and pointed out NINETEEN, who was looking in a bank window and intermittently peering at Plaintiff.

147. NINETEEN'S physical contact with Plaintiff was an offensive, harmful, offensive touching.

148. Defendant TWENTY then walked past Plaintiff while glaring at him.

149. As a direct and proximate cause of Defendants' intensified campaign of continuous and persistent harassment and intimidation by wrongful overt acts of the aforementioned 22 Defendants, Plaintiff suffered extreme emotional distress and feelings of being overwhelmed, to the point where Plaintiff could feel his body shaking.

150. As Plaintiff sat in the passenger's seat with Ruddy sitting in the driver's seat of a Jeep, Defendant TWENTY-ONE approached the rear of the Jeep and paused staring at the license plate. TWENTY-ONE walked next to where Plaintiff was seated while staring at Plaintiff, then around to the front of the Jeep, where he stared at the front plate, whereupon Plaintiff snapped a photograph of TWENTY-ONE.

151. Later that afternoon, the Deputy Independent Counsel employed in the Washington, DC Office of the Independent Counsel received actual notice that Plaintiff was the target of an orchestrated campaign of harassment and intimidation. The Office of Independent Counsel and its FBI agents failed and refused to respond until the following week.

152. On **Saturday, October 28, 1995**, at approximately 12:15 a.m., Defendant TWENTY-TWO rang the doorbell to Plaintiff's apartment as Plaintiff slept. Plaintiff called out "Who's there?" TWENTY-TWO knocked on Plaintiff's door, then departed. Plaintiff believes and therefore alleges that it was TWENTY-TWO who several times earlier that evening harassed Plaintiff by calling his apartment from the lobby telephone, and hung up when the telephone was answered.

153. The next time he left his Apartment building, at approximately 9:15 a.m. on Saturday, October 28th, Plaintiff walked west on Pennsylvania Avenue. As Plaintiff approached the corner of 25th Street, Defendant TWENTY-THREE approached on foot from behind. Plaintiff stopped, whereupon TWENTY-THREE slowed his pace. Plaintiff increased his pace, whereupon TWENTY-THREE increased his pace. Plaintiff slowed his step, whereupon TWENTY-THREE did the same. Plaintiff stopped. TWENTY-THREE stopped. Plaintiff again walked, whereupon TWENTY-THREE followed. Plaintiff stopped. TWENTY-THREE hesitated then walked slowly past Plaintiff. After TWENTY-THREE passed, Plaintiff continued to walk about ten feet behind TWENTY-THREE. TWENTY-THREE then slowed his pace almost to a stop. Plaintiff walked quickly past TWENTY-THREE for about another half block. TWENTY-THREE followed briskly. Plaintiff stopped at a sidewalk

book display. TWENTY-THREE then stopped and looked in the window of a closed tailor shop. While pretending to look at the books, Plaintiff took out his camera then resumed walking westbound for five or so paces. TWENTY-THREE followed, whereupon Plaintiff quickly turned around and snapped a photograph of TWENTY-THREE, with the flash. TWENTY-THREE said nothing and walked past Plaintiff.

154. The FBI has had the identity of Defendant TWENTY-THREE since at least as of November 6, 1995, but has failed and refused to provide Plaintiff TWENTY-THREE's identity.

Defendant Bransford

155. On **Monday, October 30, 1995** at around noon, four days after the harassment began, and three days after the OIC and FBI received actual notice of it, BRANSFORD finally telephoned Plaintiff and agreed to visit Plaintiff later that day. Plaintiff asked that BRANSFORD call Plaintiff in advance of his visit so Plaintiff's lawyer could be present. BRANSFORD tried to talk Plaintiff out of having counsel present, but at Plaintiff's insistence, BRANSFORD reluctantly agreed to call in advance of his visit.

156. That afternoon, BRANSFORD called from his car telephone while parked in front of Plaintiff's building, despite his having agreed to call Plaintiff in advance of his visit so Plaintiff's counsel could be present. Plaintiff asked BRANSFORD to wait fifteen minutes so that Plaintiff could telephone his lawyer so Plaintiff's lawyer would be present during the interview. BRANSFORD again tried to talk Plaintiff out of having counsel present, but at Plaintiff's insistence, BRANSFORD reluctantly agreed to wait fifteen minutes for the arrival of counsel.

157. Plaintiff hung up his telephone then picked it up to telephone his lawyer. Plaintiff's telephone line was dead.

158. In violation of his agreement to wait fifteen minutes for the arrival of Plaintiff's counsel, BRANSFORD arrived at Plaintiff's door two or three minutes later.

159. Plaintiff remarked that his telephone had inexplicably gone dead, whereupon BRANSFORD immediately remarked something like, "If there was a phone tap on there, or if we did something to your phone, you'd never know it, they're totally undetectable." BRANSFORD unbuttoned his suit jacket to display his weapon, and, during their conversation, BRANSFORD grinned at Plaintiff as if he knew exactly what had happened to Plaintiff. BRANSFORD refused to provide Plaintiff protection, explained that he had been detailed to the Fiske probe, that he had been "kept on" by Mr. Starr's office, and that he had worked with MONROE. Plaintiff asked BRANSFORD whether Plaintiff should trust him, whereupon BRANSFORD leaned forward, and, while grinning at Plaintiff, responded, "I don't know Mr. Knowlton, that's a good question." Plaintiff ordered BRANSFORD out of his home, whereupon Plaintiff's telephone rang and his telephone service was immediately restored.

160. Upon information and belief, Plaintiff avers that BRANSFORD purposely disabled Plaintiff's telephone to prevent Plaintiff from contacting his lawyer, that BRANSFORD was carrying a wireless transmitter and that another FBI agent was monitoring their conversation, and that this other FBI agent called Plaintiff's telephone number to signal BRANSFORD to exit Plaintiff's apartment when Plaintiff became upset and ordered BRANSFORD out of Plaintiff's apartment.

161. BRANSFORD's efforts in twice trying to talk Plaintiff out of having counsel be present, and BRANSFORD'S twice disregarding his agreement to let Plaintiff contact counsel in advance of his arrival to interview Plaintiff, were intended to give Defendant BRANSFORD the opportunity to further intimidate and cause Plaintiff emotional distress unhindered by the presence of counsel.

162. On **Wednesday, November 1, 1995,** Plaintiff testified before the District of Columbia federal Whitewater grand jury investigating the death of deputy White House counsel Vincent Foster. Prosecutors questioning Plaintiff during his grand jury appearance were apprised before Plaintiff's appearance of his reports

of being harassed by 25 or more men, and Plaintiff was relieved to have the opportunity to report to authorities the facts of the intimidation he had suffered.

163. When Plaintiff testified on November 1, 1995, deputy Independent Counsel failed to introduced himself, sat behind Plaintiff and passed notes to the associate Independent Counsel, who questioned him while resting his head on his hand, as if Plaintiff's testimony was little more than an annoyance.

164. During two and a-half-hours of testimony, Counsel asked Plaintiff about what occurred at Fort Marcy Park and his prior statements to MONROE for about an hour. During this time, Counsel referred to MONROE's false statements in his reports of interviews with Plaintiff as "alleged misquotes," and referred to the overwhelming campaign of intimidation that Plaintiff had just suffered as the "alleged harassment."

165. During the balance of the time, associate Independent Counsel insinuated that Plaintiff was a liar, a homosexual, and a publicity hound. Counsel repeatedly asked Plaintiff to explain his relationship with the two men who resided part-time in his Etlan, Virginia residence. It was a joint real estate venture, at the time owned by Plaintiff and the two men.

166. When Plaintiff demanded to know who had sent agent BRANSFORD to his home on October 30, 1995, deputy Independent Counsel, seated behind Plaintiff, spoke for the first and only time, "We sent BRANSFORD."

167. Towards the end of his appearance before the grand jury, associate Independent Counsel asked Plaintiff to step out of the room so that Counsel could ask the grand jurors whether they had any questions for Plaintiff. When Plaintiff returned, associate Independent Counsel asked Plaintiff, among other things, whether the suspicious acting man in the park talked to Plaintiff, passed him a note, confronted Plaintiff in any way or pointed a gun at Plaintiff. Counsel then asked Plaintiff a question that was coarse, insulting, injurious, hurtful, offensive, and outrageous. Plaintiff was appalled.

Counsel then followed up by asking Plaintiff why he called the police and did not wait for the police to call him, and sarcastically if he came forward because he is a "good citizen" and a "Good Samaritan."

168. Prosecutors' ill-treatment of Plaintiff during his appearance before the grand jury, in response to Plaintiff's attempts to tell the truth and to be a responsible citizen, was excessive, improper, malicious and outrageous, and was a patent abuse and perversion of the grand jury process. Plaintiff's experience in being treated so contemptuously and disrespectfully by associate and deputy Independent Counsels, who are recognized authority figures, in front of the grand jurors, on the heels of having suffered the effects of the overwhelming campaign of intimidation, caused Plaintiff further grief. Plaintiff's distress associated with prosecutors' mistreatment of him before the grand jury was a direct and proximate result of the overall conspiracy and its subsidiary conspiracy to intimidate him.

169. Defendants accomplished their object of discrediting Plaintiff before the grand jurors.

170. Defendants also accomplished their object of publicly discrediting Plaintiff. On November 24, 1997, a book review entitled *The Secret Life of Ambrose Evans-Pritchard,* written by Michael Isikoff, appeared in the widely circulated Weekly Standard Magazine. In it, Isikoff wrote:

* * *

> Evans-Pritchards' work, such as it is, consists of little more than wild flights of conspiratorial fancy coupled with outrageous and wholly uncorroborated allegations offered up by his "sources" - largely a collection of oddballs... and borderline psychotics.

* * *

> Back in Washington, Evans-Pritchard breaks one of his big stories: Patrick Knowlton, a construction worker who stopped to urinate at

> Fort Marcy Park on the afternoon of Vince Foster's death and -- here's the key part -- recalls seeing a mysterious Hispanic-looking" man lingering around the parking lot. No sooner has Evans-Pritchard popped this bombshell in the *Telegraph* than, Knowlton reports, menacing-looking men in business suits begin following him and staring really hard at him...
>
> * * *
>
> But for the moment I prefer my own conspiracy theory: Evans-Pritchard doesn't believe a word he has written... designed to discredit critics of the Clinton White House by making them look like a bunch of blithering idiots.

* * *

The next day, November 25, 1997 another book review, entitled *Conspiracy Central*, authored by Jacob Cohen, appeared in the widely circulated National Review Magazine. In it, Cohen wrote:

* * *

> ...Patrick Knowlton, who claims that he came to the park at 4:30 on the afternoon of July 20 to relieve himself, and at that time saw in the parking lot a brown Honda with Arkansas plates...
>
> * * *
>
> He insists that a very sinister-looking man was hovering around the parking lot and may have monitored his peeing... Knowlton seems to have a penchant for seeing the sinister in the glances of those he meets... Mysterious cars follow him, he says. Carefully organized teams of men constantly pass him and his girlfriend on the streets, giving them very

menacing stares... Apparently, they are present during every walk Knowlton takes, so that any experimental stroll will reveal them. One wonders, is there a school that teaches federal agents this methodology of intimidation?

171. On **Thursday, November 2, 1995** at about 3:30 p.m., as Plaintiff exited the elevator of his apartment building, Defendant TWENTY-FOUR stood outside with his back to the building. TWENTY-FOUR entered Plaintiff's building, made eye contact with Plaintiff, acted startled and immediately turned around and walked out the door. TWENTY-FOUR loitered in front of the building entrance. Plaintiff walked out the door and walked to his right, whereupon TWENTY-FOUR followed. Plaintiff continued to the corner and retrieved a paper from the newspaper box, looked up and saw TWENTY-FOUR looking down and reaching into his bag with his right hand. TWENTY-FOUR looked up and made eye contact with Plaintiff and immediately yanked his hand out of the bag and dropped the bag to his side. After Plaintiff and TWENTY-FOUR walked past one another, Plaintiff reversed course and walked toward TWENTY-FOUR, whereupon TWENTY-FOUR turned and ran.

172. As Plaintiff observed TWENTY-FOUR reach into his bag, Plaintiff reasonably believed TWENTY-FOUR intended to retrieve a handgun to shoot Plaintiff.

Other overt acts in furtherance of the conspiracy

173. Additional overt acts in furtherance of the overall conspiracy to obstruct justice concerning the federal investigations into Mr. Foster's death, not mentioned above, are intimately connected to and blended with the facts of the violations of 42 U.S.C. § 1985(2) alleged.

174. The publicly available record in the Foster case contains evidence of numerous overt acts in furtherance of the overall conspiracy by FBI agents, including but not limited to:

(1) The FBI failed to conduct an official investigation in violation of 18 U.S.C. 1751;

(2) The FBI removed evidence from Mr. Foster's desk before the locks were changed at 10:30 p.m., July 21, 1993;

(3) The FBI concealed that significant irregularities occurred during the US Park Police investigation;

(4) Contrary to the Fiske report, when authorities arrived at Fort Marcy Park, there were more than two cars in the parking lot;

(5) The Fiske Report deceptively omitted the fact that two key rings including Mr. Foster's car keys were found in his pocket at the morgue after police had failed to discover any keys during their thorough body search at Fort Marcy Park;

(6) The Fiske Report concealed that the brown Honda, with a briefcase in it, vanished from Fort Marcy Park;

(7) Based on her prior U.S. Park Police interview, the FBI knew that Mrs. Foster could not identify the black Colt Army .38 Special revolver found at Fort Marcy Park as being a gun owned by the family, so the agents showed her a silver gun similar to a family owned gun and then falsely reported that she had identified the gun found in Mr. Foster's hand at Fort Marcy Park;

(8) The Fiske Report concealed that a semi-automatic pistol was found in Mr. Foster's hand before the revolver was placed in his

hand;

(9) The FBI ignored forensic evidence found on Mr. Foster's clothing;

(10) The wound to Mr. Foster's head, as well as the the amount of blood at the scene, is not consistent with his having died at the scene by a point blank shot into the mouth from the official death weapon;

(11) The FBI concealed that a US Park police officer saw a branch lying across Mr. Foster's body;

(12) The FBI ignored that the absence of soil on Mr. Foster's shoes is inconsistent with his having walked some 700 feet on dirt paths to the spot where his body was officially found;

(13) Fiske ignored that it is inconceivable for Mr. Foster's glasses to have been thrown or bounced 19 feet uprange through foliage to the location where they were found;

(14) The FBI Laboratory concealed that the 35-millimeter roll of film taken at the park produced usable photographs, and the Fiske Report concealed that many of the death scene Polaroid photographs mysteriously vanished;

(15) The Fiske Report states that Mr. Foster was taking medication for depression but he was not;

(16) The Fiske Report concealed that Foster's doctor and long-time friend with whom he had consulted the day before he died opined that Mr. Foster was not depressed;

(17) The FBI falsely reported that those close to Mr. Foster said he was deeply depressed;

(18) The FBI knew Mr. Foster had gained weight, but reported that he lost weight to buttress the claim that he was clinically depressed;

(19) Mr. Fiske stated that no autopsy x-rays were taken without investigating significant evidence that x-rays were in fact taken; and

(20) The FBI lab reported that the "suicide note" was written by Mr. Foster, but it was forged.

175. On July 15, 1997, the Office of Independent Counsel, *In re Madison Guarantee Savings & Loan Association*, filed with the United States Court of Appeals for the DC Circuit, Special Division for the purpose of Appointing Independent Counsels, its Report on the Death of Vincent W. Foster, Jr. This Report is replete with overt acts in furtherance of the conspiracy. A partial list of these acts, not heretofore mentioned, is as follows:

(1) FBI's substantial participation in the first 16-day investigation is concealed by the OIC;

(2) The OIC concealed that there is no record of Mr. Foster's having left the White House complex alive;

(3) OIC conceals the existence of an old, secluded road at Fort Marcy, 650 feet from the body site;

(4) OIC conceals that the day before the death, a man was seen by this road acting suspiciously;

(5) OIC conceals that Park Police and Fire &

Rescue workers knew by 6:35 p.m. that Mr. Foster was employed at the White House but that officially, the White House was not notified until about 8:30 p.m.;

(6) OIC conceals that William Kennedy testified he learned of Mr. Foster's death "around 8:00";

(7) OIC conceals that David Watkins learned of Mr. Foster's death before 8:00;

(8) FBI claimed it did not learn of the death until press accounts appeared on Wednesday, July 21;

(9) OIC concealed the Medical Examiner's Report of Investigation, documenting the bullet wound in Mr. Foster's neck;

(10) OIC concealed that there is no record of any of 25 persons who viewed the body before the autopsy having seen an exit wound in Mr. Foster's head;

(a) Arthur testified there was no exit wound;

(b) Investigator Rolla probed the head, felt a mushy" spot, thought the skull appeared fractured and that the bullet might still be in the head;

(c) Other than Dr. Haut's report of the neck wound, the only record of an exterior wound seen by Dr. Haut is that it was inconsistent with the official death weapon;

(d) Paramedic Ashford related that the head was intact and coded the death a homicide;

(e) No record of Dr. Julian Orenstien, who viewed the body twice at the Hospital, ever having seen an exit wound;

(11) OIC conceals that bloodstains are consistent with the neck wound, but not with the official mouth wound;

(a) Blood present on Mr. Foster's neck, in his mouth, collar, right-side and back-side of shirt is consistent with its having drained from the neck wound;

(b) OIC posits that (because no neck wound existed) the blood on Mr. Foster's right side had drained from his mouth when an "early observer" moved the head to check for a pulse, then repositioned it;

i. OIC conceals that no one admitted to having moved the head or seen it being moved, and that no one tried resuscitation because Mr. Foster clearly appeared to have been dead for some time;

ii. OIC conceals that the blood on the right shoulder and shirt could not have been caused by an "early observer" because all early observers saw these stains on Mr. Foster's right shoulder as they arrived;

(12) OIC's claim of "blood-like stains" on the vegetation is contradicted by the accounts witnesses at the body site;

(13) Blood drainage could have been limited by bandaging the body before moving it to the park;

(a) OIC claims Mr. Foster's neck or head couldn't have been bandaged before the body was moved because the blood spatters weren't smudged;

(b) There were no such blood spatters to be smudged;

(14) Other claims of blood evidence contradicted by the evidence;

(a) OIC claims blood was visible on both sides of both eyeglass lenses, but conceals that a year earlier the FBI's serological analysis was negative;

(b) OIC's finding of blood on the gun contradicted by earlier FBI lab report of "no definitive conclusion;"

(c) OIC's claim that lack of blood on the shoes indicates the body was not moved, yet in 1994 the FBI found blood on the shoes;

(15) OIC claims Dr. Lee found powder in the soil where Mr. Foster was found, but omits that the FBI claimed to have dug this area eighteen inches a year earlier;

(16) OIC conceals that Mr. Foster's car keys were not at Fort Marcy Park by falsely reporting that (1) Rolla had "simply missed" the keys when he "patted" the pockets at the park (2) the Police had retrieved the keys before Kennedy and Livingstone visited the morgue and (3) Kennedy and Livingstone were not allowed in the same room as the body;

(a) OIC's claim that Rolla had "simply missed" two sets of keys when he "patted" Mr. Foster's pockets at the park is contradicted by the accounts of Rolla and at least two other Park Police;

i. Rolla twice testified that he had searched and emptied the pants pockets;

ii. Rolla's search of the pocket was thorough enough to rule out its containing a suicide note, according to Braun;

iii. Hodakievic "specifically" recalled Rolla check the front pockets;

(b) OIC falsely claims that Kennedy and Livingstone could not later have placed the keys in the pocket because they visited the morgue after police had retrieved the keys at the morgue;

i. OIC's chronology is contradicted by accounts of Park Police & Secret Service;

ii. OIC's chronology is contradicted by accounts of Kennedy & Livingstone;

iii. OIC's chronology is contradicted by accounts of White House personnel Marsha Scott, Web Hubbell, Bill Burton, Mac McLarty, Jane Sherburn, and George Stephanopoulos;

(c) OIC's claim that Kennedy and Livingstone were not allowed in the room with the body contradicted by Rolla's testimony;

(17) OIC conceals that there were other unidentified persons at Fort Marcy;

(18) OIC cites lack of dragging-type soil patterns on Mr. Foster's clothes as evidence that he was not dragged through the park, yet his body slid down a steep embankment after which police dragged him back up;

(19) OIC claims dirt on the shoes was visible to the naked eye, a year after the FBI had reported that the lab analysis found "no coherent soil;"

(20) OIC claims to have found a bone fragment from clothing years after FBI lab found none after analysis of debris from clothing;

(21) Mr. Foster would have to have been wearing gloves to have torn up his "suicide note" because tearing would have resulted in numerous thumb and forefinger prints on both sides of the paper, but there were no prints;

(22) OIC conceals that the first investigation was closed without having tested the official death weapon to see if it could fire;

(23) OIC's hired a suicidologist, who conducted "psychological autopsy" and concluded to "100% medical certainty" that Mr. Foster committed suicide;

(a) OIC's psychologist published paper in which he notes that "the psychological autopsy is speculative;"

(b) Experts maintain psychological autopsy is advisory, not conclusive, because it is a research diagnoses without face-to-face interview of subject.

Count I
(Conspiracy to interfere with Civil Rights in violation of 42 U.S.C. § 1985(2), Obstructing justice)
All Defendants

176. Plaintiff incorporates paragraphs 1 through 175 as if fully repeated here.

177. Conduct alleged supports the reasonable inference that the object of the overall conspiracy was to obstruct federal investigations into the death of Vincent W. Foster.

178. All wrongful acts alleged herein were commenced by agreement, concert of action, a meeting of the minds or the pursuit of conspiratorial objectives by and between named or unnamed Defendants. All Defendants are conspirators.

179. Because overt acts directed at Plaintiff were the reasonably foreseeable, necessary or natural consequences of the

overall conspiracy to obstruct justice in connection with the investigations into Mr. Foster's death, each member of that overall conspiracy is liable for Plaintiff's damages simply by virtue of his participation in that conspiracy.

180. Each Defendant designated herein is responsible in some way for overt acts of his fellow conspirators. Accordingly, each allegation against an individual named Defendant should be read to include and be made against all Defendants, and all Defendants are jointly and severally liable for Plaintiff's compensatory damages.

181. The continuous and persistent course of Defendants' intentional wrongful conduct establishes that the entire course of conduct was a single continuing action, and that there was a meeting of the minds between two or more Defendants.

182. Defendants, and each of them, commenced by express or implied agreement, concert of action, communications, or a meeting of the minds, a conspiracy to harass, intimidate, and psychologically attack Plaintiff by means of overt acts intended to accomplish the objects of the subsidiary conspiracy, to wit, to obstruct justice by deterring Plaintiff from testifying freely, fully and truthfully before the grand jury by intimidating and warning him, or alternatively to destabilize and discredit Plaintiff.

183. Acts alleged herein were violations of 42 U.S.C. § 1985(2) as overt acts of two or more Defendants in furtherance of a conspiracy to deter by intimidation or threat, Plaintiff, a grand jury witness in US District Court for the District of Columbia, from attending the grand jury proceeding, or from testifying to matters pending therein freely, fully, and truthfully.

184. All Defendants acted to violate statutory rights vested in Plaintiff, or acted with intent to cause Plaintiff harm or damage.

185. Wrongful acts of Defendant TWENTY-FOUR constitute a violation of 42 U.S.C. § 1985, prohibiting conspiracy to

retaliate against and to injure Plaintiff on account of his having attended and testified as a witness in a Court of the United States.

186. Defendants' outrageous wrongful conduct was willful, wanton, oppressive, and in reckless disregard of the civil rights of Plaintiff, entitling Plaintiff to an award of punitive damages.

WHEREFORE, Plaintiff Patrick James Knowlton demands that judgment be entered in his favor:

(1) Against all Defendants, jointly and severally, an award of compensatory damages in an amount that the jury deems just and proper;

(2) Against each and every Defendant, separately, punitive damages in an amount the jury deems just and proper; and

(3) Against all Defendants, jointly and severally, an amount equal to reasonable attorneys' fees and costs associated with the prosecution of this action, pursuant to 42 U.S.C. § 1988.

Count II
(Intentional Infliction of Emotional Distress)
All Defendants

187. Plaintiff incorporates paragraphs 1 through 186 as if fully repeated here.

188. As a further object of the conspiracy, Plaintiff avers that Defendants, and each of them, intended to subject Plaintiff to severe emotional distress and harm.

189. By virtue of and as a direct and proximate cause of Defendants' intentional wrongful conduct, Plaintiff suffered, continues to suffer, and probably will suffer in the future, severe emotional distress. Defendants' wrongful conduct has had significant effects on Plaintiff's overall well being, which effects include but are not limited to:

(a) Depression and anxiety;
(b) Intense fear of personal harm and feelings of being overwhelmed and vulnerable;
(c) Impaired concentration, withdrawal, irritability, preoccupied and tense moods;
(d) Stomach and intestinal disorders and sleep and appetite disturbances;
(e) Loss of interest in sexual and exercise and other routines;
(f) An exaggerated startle response; and
(g) Loss of confidence and feelings of degradation and shame.

WHEREFORE, Plaintiff Patrick James Knowlton demands that judgment be entered in his favor:

(1) Against all Defendants, jointly and severally, an award of compensatory damages in an amount that the jury deems just and proper; and

(2) Against each and every Defendant, separately, punitive damages in an amount the jury deems just and proper.

Count III
(Assault)
Defendants FIVE, SIX, SEVEN, EIGHT, NINE, TEN, FOURTEEN, FIFTEEN, SIXTEEN, SEVENTEEN, NINETEEN, TWENTY, TWENTY-FOUR

190. Plaintiff incorporates paragraphs 1 through 189 as if fully repeated here.

191. As a direct and proximate cause of the threatened use of imminent harmful physical force and other physical displays by Defendants FIVE, SIX, SEVEN, EIGHT, NINE, TEN, FOURTEEN, FIFTEEN, SIXTEEN, SEVENTEEN, NINETEEN, TWENTY and

TWENTY-FOUR, Plaintiff reasonably feared immediate and severe bodily harm.

WHEREFORE, Plaintiff Patrick James Knowlton demands that judgment be entered in his favor:

(1) Against Defendants FIVE, SIX, SEVEN, EIGHT, NINE, TEN, FOURTEEN, FIFTEEN, SIXTEEN, SEVENTEEN, NINETEEN, TWENTY, and TWENTY-FOUR, jointly and severally, an award of compensatory damages in an amount that the jury deems just and proper; and

(2) Against Defendants FIVE, SIX, SEVEN, EIGHT, NINE, TEN, FOURTEEN, FIFTEEN, SIXTEEN, SEVENTEEN, NINETEEN, TWENTY, and TWENTY-FOUR, separately, punitive damages in an amount the jury deems just and proper.

Count IV
(Battery)
Defendants EIGHT and NINETEEN

192. Plaintiff incorporates paragraphs 1 through 194 as if fully repeated here.

193. Conduct of Defendants EIGHT and NINETEEN was an offensive, harmful, offensive touching, and was a battery.

WHEREFORE, Plaintiff Patrick James Knowlton demands that judgment be entered in his favor:

(1) Against Defendants EIGHT and NINETEEN, jointly and severally, an award of compensatory damages in an amount that the jury deems just and proper; and

(2) Against Defendants EIGHT and NINETEEN, separately, punitive damages in an amount the jury deems just and proper.

Counts V
(Civil Conspiracy)
All Defendants

194. Plaintiff incorporates paragraphs 1 through 193 as if fully repeated here.

195. The facts alleged constitute a civil conspiracy. Wrongful acts alleged herein were overt acts of two or more Defendants in furtherance of a civil conspiracy.

WHEREFORE, Plaintiff Patrick James Knowlton demands that judgment be entered in his favor:

(1) Against all Defendants, jointly and severally, an award of compensatory damages in an amount that the jury deems just and proper; and

(2) Against each and every Defendant, separately, punitive damages in an amount the jury deems just and proper.

Plaintiff demands trial by jury.

Verification

I hereby certify and affirm that to the best of my information, knowledge, and belief, the foregoing facts are true and correct.

/S/
Patrick Knowlton

Respectfully submitted,
/S/
John H. Clarke
Bar # 388599
Attorney for Plaintiff
1730 K Street, NW
Suite 304
Washington, DC 20006

Appendix C **Amended Complaint,**
Knowlton v. United States, et al., CA 96-2467
Filed: Nov. 7, 1996

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

PATRICK JAMES KNOWLTON 2424 Pennsylvania Avenue, NW Washington, DC 20037, Plaintiff, v. LAWRENCE MONROE Individually, and as Agent of the Federal Bureau of Investigation 8128 Blandsford Drive Manassas, Virginia 22110, and RUSSEL T. BRANSFORD, Special Agent, Federal Bureau of Investigation 1900 Half Street, SW Washington, DC 20535, and AYMAN ALOURI 1707 Tyvale Court Vienna, Virginia 22180, and	)	CA No. 96-2467 NHJ

ABDEL SALEM ALOURI
1707 Tyvale Court
Vienna, Virginia 22180,

and

JOHN DOE No. 1, through
JOHN DOE No. 24, inclusive,

Defendants.

AMENDED COMPLAINT
(Conspiracy to interfere with Civil Rights
in violation of 42 U.S.C. § 1985(2), Obstructing justice;
Intentional Infliction of Emotional Distress;
Assault; Battery; Civil Conspiracy)

COMES NOW Plaintiff, Patrick James Knowlton, by and through counsel, and respectfully states:

Jurisdiction

1. This Court has jurisdiction over Plaintiff's claims for relief under 42 U.S.C. §§ 1985, 1986, as claims arising under the constitution and laws of the United States, pursuant to 28 U.S.C. §§ 1331, 1343(a)(1) and (a)(2). This Court has supplemental jurisdiction over all of Plaintiff's other claims for relief as state law claims so related to Plaintiff's claim in the action within the original jurisdiction that they form part of the same case or controversy.

Summary of case

2. This case arises from an overall conspiracy to obstruct justice in connection with federal investigations into the death of deputy White House counsel Vincent W. Foster.

3. Wrongful acts alleged herein were violations Wrongful acts alleged herein were violations of 42 U.S.C. § 1985(2) as overt

acts of two or more Defendants in furtherance of a conspiracy to deter by intimidation or threat, Plaintiff, a grand jury witness in the US District Court for the District of Columbia,, from attending the grand jury proceeding, or from testifying to matters pending therein freely, fully, and truthfully.

4. Overt acts alleged in furtherance of the conspiracy were committed between the time period of April 15, 1994 through November 2, 1995. Because the overt acts directed at Plaintiff were the reasonably foreseeable, necessary or natural consequences of the conspiracy when entered into, each member of the conspiracy is liable for Plaintiff's damages by virtue of his membership in the conspiracy.

5. Overt acts in furtherance of the conspiracy included harassment of Plaintiff on the eve of his testimony before a Washington, DC federal grand jury, beginning the same day Plaintiff received a grand jury subpoena. The subpoena was served by Defendant FBI Agent Russell Bransford, assigned to the Office of Independent Counsel under Kenneth W. Starr.

6. Defendant Bransford was formerly assigned to the Office of Independent Counsel under Robert W. Fiske, Jr., where Defendnan5t Bransford worked with Defendant FBI Agent Larry Monroe. The first overt act alleged in furtherance of the conspiracy was committed by Defendant Monroe in April, 1994, when Defendant Monroe interviewed Plaintiff and falsified statements made by Plaintiff regarding events he witnessed in Fort Marcy Park on July 20, 1993 within 70 minutes of the discovery of Mr. Foster's body. The Federal Bureau of Investigation ("FBI") is a principle Defendant in this case.

7. Plaintiff was harassed by at least 26 Defendants prior to testifying before the Whitewater grand jury, and one Defendant after he testifying:

(1) Eleven or more Defendants on October 26, 1995;

(2) Twelve or more Defendants on October 27,

1995;

(3) Two or more Defendants on October 28, 1995;

(4) Defendant FBI Agent Bransford on October 30, 1995;
and

(5) One Defendant on November 2, 1995.

8. The objects of the harassment were twofold, to:

(1) Intimidate and warn Plaintiff; and failing that, to

(2) Destabilize and discredit Plaintiff.

This technique of subjecting a witness to an overwhelming campaign of non-verbal harassment to (1) intimidate and warn, and (2) to destabilize and discredit the witness is known to federal intelligence and investigative agencies. The technique is a forme of what is known as "psychological operations" or "Psyhops."

Parties

9. Plaintiff Patrick James Knowlton is an individual presently residing at 2424 Pennsylvania Avenue, NW, Washington, DC.

10. Defendant avers that overt acts alleged in furtherance of the conspiracy were committed at the direction or with the knowledge or consent of Defendant United States by and through the Federal Bureau of Investigation ("FBI"). Defendant United States thereby permitted, permitted, or impliedly or expressly ratified wrongful overt acts alleged and is liable to Plaintiff under principles of agency and *responeat superior*.

11. Defendant Lawrence Monroe ("AGENT MONROE") is sued herein both in his individual capacity and as agent of the FBI. Upon information and belief, Plaintiff avers that AGENT MONROE resides at 8128 Blandsford Drive, Manassas, Virginia, and that he is currently employed by the United States Department of Justice. At all times material hereto, AGENT MONROE was employed by the

FBI acting within the scope of his employment as Special Agent assigned to the Office of Special Counsel under Robert B. Fiske, Jr.

12. Defendant Russell T. Bransford ("AGENT BRANSFORD") is is sued herein both in his individual capacity and as agent of the FBI. AGENT BRANSFORD was employed by the FBI acting within the scope of his employment as Special Agent assigned to the Office of Special Counsel under Robert B. Fiske, Jr., where he worked with AGENT MONROE, and was subsequently emp[loyed by the FBI acting within the scope of his employment as Special Agent assigned to the Office of Independent Counsel under Kenneth W. Starr.

13. Defendant Ayman Alouri ("AYMAN ALOURI") is an individual whose last known address was 1707 Tyvale Court, Vienna, Virginia. Plaintiff avers that Defendant AYMAN ALOURI is a citizen of the country of Jordan.

14. Defendant Abdel Salem Alouri ("ABDEL ALOURI") is an individual whose last known address was 1707 Tyvale Court, Vienna, Virginia. Plaintiff avers that Defendant AYMAN ALOURI is a citizen of the country of Jordan.

15. Defendant John Doe No. 1 ("ONE"), through Defendant John Doe No. 24 ("TWENTY-FOUR"), inclusive, are all male individuals, sued herein under fictitious names, their names and capacities being unknown to Plaintiff who will seek leave of this Court to amend his Complaint by inserting their true names and capacities in the place and stead of the fictitious names when the same have been ascertained.

16. All wrongful acts alleged herein were commenced by agreement, concert of action, or a meeting of the minds by and between two or more named or unnamed Defendants. All Defendants are conspirators. As all conspirators are not presently known, Plaintiff will, should it become appropriate, seek leave to amend this Complaint to name other Defendants. As all conspirators are not presently known, Plaintiff will, should it become appropriate, seek leave to amend this Complaint to name other Defendants.

Some of the named or unnamed conspirators joined the conspiracy at different times through agreement or concert of action, the particulars of which are not presently known to Plaintiff who will, should it become appropriate, seek leave to amend this Complaint.

Facts

17. On July 20th, 1993 Plaintiff witnessed events in Fort Marcy Park.

18. On April 15, 1994, AGENT MONROE, while assigned to the Office of Special Counsel under Robert B. Fiske, Jr., interviewed Plaintiff. While showing Plaintiff six or more photographs of Mr. Foster's car, AGENT MONROE questioned Plaintiff over 15 times in various ways whether the Honda he saw with Arkansas license plates (in the same parking space where Foster's Honda was later found) could have been Foster's 1989 taupe colored Honda. Plaintiff repeatedly and adamantly responded no; that the Honda he saw was older, of a different body style, and was rust-brown in color. At the conclusion of this interview, AGENT MONROE asked Plaintiff "not to go to the press" with his story. 64. Soon thereafter, in accordance with AGENT MONROE's request, Plainitiff declined an on-air interview with radio talk show host G. Gordon Liddy.

19. On May 11, 1994, AGENT MONROE interviewed Plaintiff a second time. AGENT MONROE again repeatedly questioned Plaintiff whether the Honda he saw could have been Mr. Foster's 1989 taupe colored Honda, this time while showing Plaintiff reports of other witnesses. Each time Plaintiff responded no. During the interview, Plaintiff picked out two car color panels in the FBI laboratory, which were identified by the FBI laboratory technician as a 1983 and 1984 Honda (both panels were the same color).

20. Subsequent to interviewing Plaintiff, AGENT MONROE prepared reports of Plaintiff's statements. Having failed to obtain an admission from Plaintiff that the Honda Plaintiff saw could have been Foster's 1989 taupe colored Honda, AGENT MONROE, knowingly and with specific intent to obstruct justice,

falsified Plaintiff's account of the 1983 or 1984 rust-brown Honda Plaintiff observed. AGENT MONROE stated that Plaintiff *"identified this particular vehicle as a 1988 to 1990... Honda with Arkansas plates."* Because Plaintiff observed a Honda with Arkansas plates (similar to but *not Foster's*) approximately 70 minutes before the discovery of his body, in the same parking space where Foster's car was later found, Plaintiff's information refutes AGENT MONROE's sworn conclusion that Mr. Foster committed suicide in Fort Marcy Park."

21. This and other false statements appearing in AGENT MONROE's reports of Plaintiff's statements in furtherance of the conspiracy are set forth below in paragraph 28(b). These false statements are overt acts in furtherance of the conspiracy to obstruct justice.

22. On June 30, 1994 the Report of the Independent Counsel In Re Vincent W. Foster, Jr. ("Fiske Report") was published. On July 29, 1994, AGENT MONROE testified before the Senate Banking committee, where he supported, joined and adopted the Fiske Report as his own statement. That portion of the Fiske Report which summarizes Plaintiff's statements reflects additional overt acts in furtherance of the conspiracy to obstruct justice. The Fiske Report:

(a) Strongly implies that the "Japanese-made car" plaintiff observed was in fact Foster's and omits that the Honda Plaintiff saw was an older model and different in color than Foster's.
(b) Fails to mention the briefcase Plaintiff reported seeing in the Honda.
(c) Fails to mention the wine coolers Plaintiff reported seeing in the Honda.
(d) Misstates the placement of the suit jacket Plaintiff reported observed in the Honda.
(e) Misstates the time Plaintiff reported being in the park; and
(f) Omits that Plaintiff reported observing a man in the park acting very suspiciously.

23. AGENT BRANSFORD or one or more of the other six FBI Agents assigned to Fiske Office of Independent Counsel interviewed and prepared reports of statements of two other witnesses in Fort Marcy Park, who, 20 to 30 minutes before the discovery of Foster's body, saw the same Honda Plaintiff saw parked in the same spot (where Foster's car was later found). AGENT MONROE and the Fiske Report posit that the subject car was in fact Foster's Honda. These two witnesses reported that "a white male was seated in the drivers seat" and " the hood of the vehicle was up and [another] white male was standing in the vicinity." In spite of the fact that these two witnesses reported seeing two men in and around what Fiske Report posits was Foster's Honda, at a time when Mr. Foster body was lying less than 700 feet from that Honda, AGENT MONROE and the Fiske Report declare that "Neither [of these two witnesses]... observed anything unusual."

24. The foregoing excerpt from the Fiske Report is but one of many overt acts contained in that Report in furtherance of the conspiracy to obstruct justice into the investigation into Mr. Foster's death. These overt acts are in furtherance of the conspiracy show motive for violations of 42 U.S.C. § 1985(2) against Plaintiff. Moreover, these overt acts are intimately connected and blended with the facts of the violation of 42 U.S.C. § 1985(2) alleged. Other overtly false and misleading statements in the Fiske Report in furtherance of the conspiracy to obstruct justice into the investigation into Mr. Foster's death included but are not limited to the following:

1. *Lisa Foster stated that the gun looked similar to the one that she had seen in their home in Arkansa and that she had brought to Washington."*

Lisa Foster's statement did not say she "had seen," it says she "may have seen." There is no record in any of the official statements that she brought a black gun to Washington. The only gun she reported bringing to Washington was a "silver six-gun." The gun found in Foster's hand was black. (See pp. 1646, 2227, Hearing

before the Committee on Banking, Housing and Urban Affairs, United States Senate. Hearing Related to Madison Guaranty S&L and the Whitewater Development Corporation, Washington, DC phase, ("S. Hrg. 103 -889")).

2. *"When shown the gun, Foster's sister Sharon Bowman, identified it as appearing very similar to one their father had kept in his bedside table, specifically the pattern on the grip."*

Sharon Bowman was never shown the gun. She was shown a photograph of the gun. She said only that the grip was similar to the gun Foster's father owned. When asked if other parts were similar, she responded, "No." (pp. 741, 2169, S. Hrg.103-889);

3. *"CW (confidential witness) acknowledges that, because of his position at the top of the berm and heavy foliage, there could have been a gun in the man's hands that he did not see."*

CW made this statement only after he was asked numerous times if he had seen a gun. Numerous times he said, "NO." CW later said he was badgered by the questions. The FBI refused to show him a photograph which he requested to verify what he saw. Later when he saw the photograph of Foster's hand with the gun in it, he positively denied that was what he saw. He repeatedly stated that he closely looked at the hands and there was no gun.(See p. 1642, S. Hrg. 103-889);

4. *"CW further stated that he believed the man's palms were facing upward."*

Anyone reading the reports of this witness' statements would know there was no doubt. The report frequently injects words like "believed" and "appeared" when the statements condradict the conclusion of suicide where

the body was found. (See p. 2226, S. hrg. 103-889);

5. *"experts in the FBI Laboratory performed a thorough analysis of the available evidence."*

No attempt was made to determine the origin of hair and carpet fibers found on Mr. Foster's clothing. (See pp. 67-68, S. Hrg. 103-889);

6. *"Everyone known to have been in Fort Marcy Park on the afternoon or evening of July 20, 1993 also was questioned..."*

The following persons were never questioned: men seen in and around the 1983 or 1984 rust brown Honda, the man in the blue-gray Japanese car, volunteers working on the trail mentioned by Officer Fornshill, men seen getting dressed in the woods by paramedics, and a jogger. (See pp. 917-918, 1161, 1387, 1470-1474, 1715 -1730; S. Hrg. 103-889);

7 *"Park Police who were present when Foster's body was rolled over observed a fairly large pool of blood on the ground where his head had been."*

Park Police Officer Rolla, present at the scene when Foster's body was rolled over, stated that he did not remember blood on the ground. He said most of the blood was on the head. (See pp. 427, 629, 1659 Senate Hearings);

8. *"Foliage leading up to and around Foster's body was dense."*

This sentence was used to explain why no dirt was on Foster's shoes. Directly in front of the second cannon is a dirt path. Numerous eyewitnesses described this dirt path.

9. *"The overwhelming weight of the evidence compels the conclusion, however, that Vincent Foster committed suicide in Fort Marcy Park on July 20, 1993."*

The overwhelming weight of evidence compels the conclusion that the Fiske Report manipulated the facts to support its conclusion and that the Report omits facts that contradict its conclusion.

25. On October 13, 1995, an investigative journalist showed Plaintiff written summaries of his statements which Plaintiff had not seen, prepared by AGENT MONROE.

26. On **October 22, 1995**, a newspaper article entitled "Death in the Park: Is this the killer?" appeared in the London *Sunday Telegraph*. The article reported that Plaintiff was in Fort Marcy Park the day Vincent Foster's body was discovered. An artist's sketch of a man Plaintiff saw in the Park appeared with the article, which was subtitled, "Foster mystery: a key witness ignored by the FBI reveals the face." It states in part:

> When the *Sunday Telegraph* showed him police judicial summaries of his testimony - which he had not seen - he was stunned, saying his statements have been falsified...
>
> The other [car in the parking lot of Fort Marcy Park] was a blue sedan, possibly a Japanese make. There was a man in his twenties sitting inside it with a manicured appearance. He lowered his window and gave Knowlton a ***threatening look***... (emphasis added)
>
> His FBI statement says that Knowlton "could not further identify this individual and stated that he would be unable to recognize him in the future". "That's an outright lie," he said, angrily...

> The *Sunday Telegraph* asked if he would be willing to help with an artist's sketch of the suspect. He agreed... The sketch above was drawn by an experienced police artist...
>
> Starr's investigators have never talked to Knowlton. The federal grand jury has never summoned him to give sworn testimony...

27. Four days after this article [alleging 'out-right lies' by the FBI] was published overseas, and two days after it was available in the United States, on Thursday, October 26, 1995, Plaintiff was served a subpoena by AGENT BRANSFORD to appear and testify before the Washington, DC, Whitewater grand jury six ays later, Wednesday, November 1.

28. Plaintiff expected to be called to testify before the grand jury on the following matters:

(a) Within 80 minutes of the discovery of Vincent Foster's corpse, Plaintiff observed in Fort Marcy Park:

(1) A rust-brown Honda with Arkansas plates [similar to but not the 1989 Honda Foster reportedly drove to the park];

(2) The following items in the rust-brown Honda:
(a) a suit jacket;
(b) a briefcase; and
(c) two full bottles of wine cooler;

(3) A newer blue-gray sedan, backed in three or four spaces to the right of the rust-brown Honda; and

(4) A Middle Eastern or Hispanic looking man seated in the driver's seat of the blue-gray sedan. Plaintiff expected to testify what the man did as he sat in the driver's side of his backed in car:

(5) As Plaintiff parked his car, the man lowered his passenger side electric window and gave Plaintiff a constant fierce stare;

As Plaintiff exited his car, the man exited the blue-gray sedan. As Plaintiff walked toward the foot path entrance to the park, the man leaned on the roof of his sedan while continuing give Plaintiff "the stare;"

Plaintiff entered the Park and chose to walk in the opposite direction from where Foster's body was found, whereupon the man got back in his car; and approximately three minutes later, when Plaintiff returned to his own car, he observed the man again seated in the driver's seat of the blue-gray sedan still staring at him.

(b) Plaintiff also expected to testify about the FBI 302 Reports of his statements, prepared in April and May of 1994 by AGENT MONROE while assigned to the Office of Special Counsel under Robert Fiske. Specifically, Plaintiff expected to testify:

(1) Referring to the man in the blue-gray sedan, the FBI report states that Plaintiff *"could not further identify this particular individual nor his attire and stated that he would be unable to recognize him in the future."* Plaintiff told the FBI interviewers just the opposite;

(2) The FBI Report states that Plaintiff identified the blue-gray sedan as having "*Virginia license plates...*" Plaintiff told the FBI that he hadn't seen the license plates on that car;

(3) Regarding the contents of the rust-brown Honda, the 302 states that Plaintiff "*could furnish no other descriptive data regarding the vehicle or for that matter the contents located within the vehicle.*", thus omitting that Plaintiff reported seeing two wine cooler bottles on the back seat; and

(4) Referring to the rust-brown Honda, the 302 stated Plaintiff "*identified this particular vehicle as a 1988 to 1990... Honda with Arkansas plates.*" Plaintiff responded over 20 times that the Honda he saw was older and a different color than Foster's 1989 Honda.

29. Upon information and belief, Plaintiff avers that he is the only witness who is certain of the description of the Honda he saw and of the contents he observed in that Honda.

30. Having failed to obtain an admission from Plaintiff that the car he saw could have been Mr. Foster's, AGENT MONROE falsified his reports of Plaintiff's statements to conceal Plaintiff's account. When a story was published that AGENT MONROE concealed the fact that the car Plaintiff saw was not Foster's, and that AGENT MONROE and the FBI falsified Plaintiff's account, Defendants conspired and schemed to neutralize Plaintiff's statements, both made and anticipated. Defendants undertook to engage in conduct known in intelligence circles: To effect an overwhelming campaign of harassment and intimidation to neutralize any damage Plaintiff could do to the ongoing conspiracy to hide the circumstances of Mr. Foster's death, by:

(1) Intimidating and warning Plaintiff; and failing that, by

(2) Destabilizing and discrediting Plaintiff.

This *modus operandi* is known in the intelligence community.

31. Beginning later the **same day AGENT BRANSFORD served Plaintiff the subpoena, Thursday, October 26, 1995, which subpoena was known only to the FBI and the Office of Independent Counsel**, Defendants, and each of them, began a campaign of harassment, intimidation, terror, and psychological attack upon Plaintiff, commiting overt acts intended to accomplish the objects of the consp[ieracy, to wit, to deter Plaintiff from testifying freely, fully, and truthfully before the grand jury by intimnidating and warning him, and to destabilize and discredit Plaintiff. Overt acts undertaken by Defendants against Plaintiff in furtherence of the conspiracy included but were not limited to overt acts alleged below.

32. On October 26, 1995, Plaintiff discussed by telephone with his girlfriend their plans for that evening. Plaintiff and Kathy agreed to walk from Plaintiff's residence to the Dupont Circle neighborhood. The two agreed to go to the CVS and then to a particular restaurant in the Dupont Circle neighborhood.

33. During the evening of October 26, 1995, Plaintiff and his companion ("Kathy") walked on the public street. Defendant ONE walked toward them while constantly staring directly at Plaintiff's face. Kathy directed Plaintiff's attention to ONE's behavior. ONE directed a fierce glare into Plaintiff's eyes as he approached, and continued this uninterrupted glare as he walked past Plaintiff. After they passed, ONE stopped and continued to watch Plaintiff as he raised his left wrist to his mouth and spoke into his coat sleeve.

34. Within five seconds after Plaintiff's contact with ONE, Defendant TWO walked directly toward Plaintiff while directing a constant fierce glare at Plaintiff's face, then cut to Plaintiff's left, turned his head toward Plaintiff, past Kathy, all the while continuously glaring into Plaintiff's eyes.

35. Approximately twenty seconds after Plaintiff's contact with TWO, Defendant THREE approached them from ahead, and while passing on Plaintiff's right, glared fiercely into Plaintiff's eyes, and continued to do so as he passed.

36. Approximately four minutes after Plaintiff's contact with THREE, Kathy waited in line at the CVS pharmacy counter while Plaintiff sat in a nearby chair. During the five minutes Defendant FOUR stood in line behind Kathy, FOUR did not face forward, but rather stood facing Plaintiff and continuously glared fiercely at Plaintiff as FOUR moved up in line. When Kathy handed her prescription to the pharmacist, FOUR walked away.

37. Approximately four minutes after Plaintiff's contact with FOUR, Defendant FIVE stood on the street approximately 50 feet away, continually staring in Plaintiff's direction. FIVE walked toward Plaintiff and directed a fierce glare into Plaintiff's eyes as he approached and passed.

38. As a direct and proximate result of the continuous and persistent physical displays of Defendants ONE through FIVE, inclusive, Plaintiff reasonably believed the entire course of conduct was a single continuing action, and reasonably feared the use of harmful physical force by Defendants to cause severe bodily harm to Plaintiff.

39. Approximately one minute after Plaintiff's contact with FIVE, as Plaintiff and Kathy walked northbound, Defendant SIX stood military "at-ease" style on the corner glaring at Plaintiff as they approached. As Plaintiff reached the corner, SIX pivoted on one foot, keeping his military-type "at-ease" stance while glaring fiercely at Plaintiff, then followed Plaintiff about three feet behind him, the length of the block. SIX came from behind and overtook Plaintiff and Kathy on their right while continually glaring at Plaintiff, again assumed the military-type "at-ease" stance and continued to glare fiercely at Plaintiff.

40. As a direct and proximate result of the continuous and persistent physical displays of ONE through SIX, inclusive, Plaintiff

reasonably concluded the entire course of conduct of ONE through SIX was a single continuing action, and as SIX followed three feet behind him, Plaintiff reasonably feared the imminent use of harmful physical force by SIX. Plaintiff's emotional distress was so extreme that he felt physically sick and his legs felt rubbery.

41. At this point in time, one of the objects of Defendants' conspiracy was realized: Plaintiff reasonably concluded that this bizarre continuing harassment and intimidation was related to the subpoena to testify before the grand jury in the US District Court for the District of Columbia, served earlier that day.

42. Simultaneously with Plaintiff's contact with SIX, Defendant SEVEN paced back and forth about 50 feet ahead. SEVEN constantly glared at Plaintiff before, during and after Plaintiff and Kathy passed.

43. Simultaneously with Plaintiff's contacts with SIX and SEVEN, Defendant EIGHT walked directly toward Plaintiff while constantly glaring at him. EIGHT passed on Plaintiff's right and purposely brushed against him while constantly glaring fiercely directly into his eyes, and continued to glare at Plaintiff after he passed.

44. EIGHT'S physical contact with Plaintiff was an offensive, harmful, offensive touching. Plaintiff suffered severe emotional distress. He reasonably feared the imminent use of harmful physical force by Defendants to cause severe bodily harm to himself and to Kathy, and was a nervous wreck.

45. Simultaneously with Plaintiff's contacts with SIX and EIGHT, Defendant NINE stood on the northwest corner of R Street and Connecticut Avenue, staring directly toward Plaintiff.

46. The simultaneous harassment by SIX, EIGHT and NINE, immediately following the back-to-back harassment of ONE through SIX, inclusive, caused Kathy extreme emotional distress. She became panic-stricken and struggled to maintain her composure

and to keep from weeping. Plaintiff feared for Kathy as well as himself.

47. As soon as Plaintiff and Kathy began to cross the street at the intersection, NINE, while continually staring at Plaintiff, crossed the street so that he reached the corner at the same time as Plaintiff. Plaintiff and Kathy walked arm-in-arm southbound, whereupon NINE walked southbound to the left and three feet abreast of Kathy while looking over Kathy and directly at Plaintiff's face. Plaintiff and Kathy increased their pace, whereupon NINE also increased his pace. After Plaintiff was ahead of NINE, Kathy and Plaintiff stopped in front of a restaurant window. NINE passed by slowly while continuously glaring at Plaintiff's face, stopped three doors down, and intermittently looked to his right at Plaintiff. Plaintiff and Kathy resumed walking southbound, whereupon NINE walked southbound while looking back at Plaintiff every few seconds. Plaintiff and Kathy slowed their pace almost to a stop. NINE did the same. Plaintiff and Kathy stopped. NINE stopped and again looked at Plaintiff and Kathy every few seconds.

48. As NINE walked abreast of Plaintiff while glaring directly at him, Plaintiff again felt his legs become rubbery as he continued to suffer extreme emotional distress from the fear of imminent use of harmful physical force by NINE.

49. As Plaintiff and Kathy walked southbound approximately ten minutes after Plaintiff's contact with NINE, a southbound car driven by Defendant TEN proceeded past them very slowly. TEN pulled the car to the curb about a half-block ahead of them, exited the car, and walked toward Plaintiff and Kathy. TEN stopped then looked at them. As Plaintiff approached, TEN walked to a point about 30 feet south and glared intensely at Plaintiff as he passed. After Plaintiff and Kathy proceeded about another 75 feet, TEN opened and reached inside the car's passenger door and pulled out a telephone or walkie-talkie and spoke into it while looking in Plaintiff's direction.

50. When TEN reached inside the passenger's side door of the car, Plaintiff reasonably believed TEN might be retrieving a gun,

and Plaintiff and Kathy again reasonably entertained thoughts they might be harmed.

51. Approximately fifteen minutes after Plaintiff's contact with TEN, Plaintiff and Kathy sat in the downstairs dining area of a restaurant, whereupon Defendant ELEVEN stood in the mall area looking directly at them for approximately one minute. About three minutes later, ELEVEN walked down the stairs and through the dining area, where he slowed his pace while staring directly at Plaintiff. About fifteen seconds later, ELEVEN walked back through the dining area and again slowed his pace and stared directly at Plaintiff, then proceeded back up the stairs. Approximately five minutes later, ELEVEN reappeared in the mall area staring down at Plaintiff.

52. On **Friday, October 27th, 1995**, the day following Plaintiff's contacts with Defendants ONE through ELEVEN, the next time Plaintiff went out in public, at around 9:30 a.m., Plaintiff and Kathy walked northbound. A northbound black Nissan Altima, bearing a Maryland license plate, with Defendant TWELVE driving and Defendant THIRTEEN in the passenger's seat, drove by very slowly. TWELVE and THIRTEEN stared directly at Plaintiff. Approximately one minute later, the car came back southbound, slowed when it reached Plaintiff, whereupon TWELVE and THIRTEEN again stared directly at Plaintiff.

53. Upon information and belief, Plaintiff avers that the car occupied by Defendant TWELVE and Defendant THIRTEEN was a federal government vehicle.

54. The same day of Plaintiff's contacts with TWELVE and THIRTEEN, October 27th, 1995, shortly before 1:00 p.m., Christopher Ruddy (hereinafter "Ruddy") visited Plaintiff at Plaintiff's apartment. At the time, Plaintiff did not know Ruddy and was unfamiliar with Ruddy's work. Plaintiff and Ruddy walked eastbound. It was the next time Plaintiff had ventured out in public. Approximately two minutes after they left Plaintiff's building, Defendant FOURTEEN crossed the street so that they all reached the corner at the same time. FOURTEEN glared at Plaintiff, raised his

eyebrows and from the waist pointed his finger at Plaintiff as if to say "gotcha." FOURTEEN then walked on. Ruddy approached FOURTEEN, produced his journalist ID, and spoke to FOURTEEN, whereupon FOURTEEN introduced himself as "Joe Colter," said he had worked at the White House, a World Bank organization, as an advisor to Bill Clinton, and currently works for an international technology business.

55. FOURTEEN reintroduced himself and shook Plaintiff's hand while saying, "I didn't hear your name." Plaintiff said "Patrick Knowlton," whereupon FOURTEEN gave Plaintiff's hand a hard squeeze and while leaning forward and glaring into his eyes, said, "Nice to meet you, Mr. Knowlton."

56. Plaintiff reasonably understood FOURTEEN's pointing his finger as if to say "gotcha" as a direct threat of harm. When FOURTEEN spoke to Plaintiff, Plaintiff reasonably believed that FOURTEEN's purpose for stopping was to show Plaintiff that FOURTEEN knew exactly who he was. Plaintiff experienced severe emotional distress and felt and appeared physically ill.

57. Simultaneously with Plaintiff's conversation with FOURTEEN, Defendant FIFTEEN watched from his position standing on the sidewalk about sixty feet away. FIFTEEN approached and, while ignoring FOURTEEN and Ruddy, stared directly at Plaintiff's face for about thirty seconds. FIFTEEN then left.

58. When FIFTEEN approached, Plaintiff became extremely distressed that FOURTEEN and FIFTEEN intended to assault Plaintiff.

59. Approximately thirty seconds after Plaintiff's contacts with FOURTEEN and FIFTEEN, as Ruddy and Plaintiff continued walking around Washington Circle, a white Honda bearing Virginia license plates number NY 7534 stopped in a no-parking zone in the northbound lane of 23rd Street, at Washington Circle. Defendant AYMAN ALOURI drove the car. Defendant ABDEL ALOURI occupied the passenger's seat. AYMAN ALOURI and ABDEL

ALOURI continuously stared in Plaintiff's direction as Plaintiff crossed in front of the car and proceeded around the circle. AYMAN ALOURI drove the car very slowly onto the circle and past Plaintiff while ABDEL ALOURI continuously glared at Plaintiff. The car went around the circle, out of sight. Seconds later the car approached them from behind and drove slowly past as both AYMAN ALOURI and ABDEL ALOURI glared at Plaintiff. The car stopped about sixty feet ahead, whereupon AYMAN ALOURI and ABDEL ALOURI adjusted the car's mirrors to watch Plaintiff. Ruddy and Plaintiff walked in the direction of the car and observed the license plate just before AYMAN ALOURI drove the car through a red light and sped away.

60. When AYMAN ALOURI and ABDEL ALOURI circled back and came alongside them, Plaintiff was again fearful of being in danger of imminent harmful physical force.

61. Approximately thirty seconds after Plaintiff's contact with AYMAN ALOURI and ABDEL ALOURI, as Plaintiff and Ruddy continued eastbound, Defendant SIXTEEN approached while staring directly at Plaintiff's face as he passed. SIXTEEN then walked ahead of Plaintiff and Ruddy. As Plaintiff and Ruddy walked slowly for the next half block, SIXTEEN looked back at Plaintiff every few seconds.

62. As a direct and proximate result of the continuous and persistent physical displays of the aforementioned eighteen Defendants, Plaintiff reasonably concluded the entire course of conduct of the Defendants was a single continuing action, reasonably feared the imminent use of harmful physical force, and suffered extreme emotional distress. He felt overwhelmed, and again felt physically sick.

63. Simultaneously with Plaintiff's contact with SIXTEEN, as Plaintiff approached the middle of the block, Defendant SEVENTEEN passed them on Ruddy's left while staring at Plaintiff. When SEVENTEEN got about five paces in front of them, Ruddy approached him and tried to speak to him, whereupon SEVENTEEN walked into children's health clinic.

64. As Plaintiff and Ruddy continued to walk eastbound, SIXTEEN stood on the sidewalk about 60 feet ahead looking in their direction. SIXTEEN then resumed walking eastbound ahead of them, then turned right on 21st Street. Plaintiff and Ruddy followed as SIXTEEN walked eastbound in front of the 2000 Penn Mall.

65. As Ruddy and Plaintiff entered that block, Defendant EIGHTEEN walked directly toward Plaintiff while giving Plaintiff a constant purposeful glare. EIGHTEEN passed Plaintiff on his right, continuously glaring at him.

66. Five minutes later, as Plaintiff and Ruddy exited the 2000 Penn Mall, SIXTEEN and EIGHTEEN stood conversing 50 feet to their right. EIGHTEEN looked toward Plaintiff and Ruddy, and began walking toward them. SIXTEEN then raised his left wrist to his mouth and spoke into his coat sleeve and crossed 20th Street. Ruddy and Plaintiff then followed SIXTEEN down a set of stairs into a delicatessen, where Ruddy approached SIXTEEN and asked him if he was with a federal law enforcement agency. SIXTEEN replied, "Something like that," and walked away.

67. As Plaintiff neared the steps out of the delicatessen, Defendant SIX stood at the top of the stairs staring down at Plaintiff. As Plaintiff climbed the steps, Defendant SIX descended the steps past Plaintiff while constantly staring fiercely at him.

68. When Plaintiff recognized SIX from the day before, he suffered severe emotional distress from the firm belief that the entire course of conduct of all Defendants was a single continuing action. As SIX descended the steps past him, Plaintiff reasonably feared the imminent use of harmful physical force, suffered further emotional distress, and again felt physically sick.

69. Approximately three minutes later, Plaintiff exited the building and sat down alone at a sidewalk table and tried to regain his composure, whereupon Defendant NINETEEN pushed Plaintiff's chair from behind, and walked past him while glaring. As Ruddy exited the building, Plaintiff approached him and pointed out

NINETEEN, who was looking in a bank window and intermittently peering at Plaintiff.

70. NINETEEN'S physical contact with Plaintiff was an offensive, harmful, offensive touching.

71. Defendant TWENTY then walked past Plaintiff while glaring at him.

72. As a direct and proximate cause of Defendants' intensified campaign of continuous and persistent harassment and intimidation by wrongful overt acts of the aforementioned 22 Defendants, Plaintiff suffered extreme emotional distress and feelings of being overwhelmed, to the point where Plaintiff could feel his body shaking.

73. As Plaintiff sat in the passenger's seat with Ruddy sitting in the driver's seat of a Jeep, Defendant TWENTY-ONE approached the rear of the Jeep and paused staring at the license plate. TWENTY-ONE walked next to where Plaintiff was seated while staring at Plaintiff, then around to the front of the Jeep, where he stared at the front plate, whereupon Plaintiff snapped a photograph of TWENTY-ONE, a copy of which is attached hereto as Exhibit 1 and by this reference incorporated herein.

74. Later that afternoon, AGENT BRANSFORD's superiors *received* actual notice that Plaintiff was the target of an orchestrated campaign of harassment and intimidation. The FBI failed and refused to respond until the following week.

75. On **Saturday, October 28, 1995**, at approximately 12:15 a.m., Defendant TWENTY-TWO rang the doorbell to Plaintiff's apartment as Plaintiff slept. Plaintiff called out "Who's there?" TWENTY-TWO knocked on Plaintiff's door, then departed. Plaintiff believes and therefore alleges that it was TWENTY-TWO who several times earlier that evening harassed Plaintiff by calling his apartment from the lobby telephone, and hung up when the telephone was answered.

76. The next time he left his Apartment building, at approximately 9:15 a.m. on Saturday, October 28th, Plaintiff walked west on Pennsylvania Avenue. As Plaintiff approached the corner of 25th Street, Defendant TWENTY-THREE approached on foot from behind. Plaintiff stopped, whereupon TWENTY-THREE slowed his pace. Plaintiff increased his pace, whereupon TWENTY-THREE increased his pace. Plaintiff slowed his step, whereupon TWENTY-THREE did the same. Plaintiff stopped. TWENTY-THREE stopped. Plaintiff again walked, whereupon TWENTY-THREE followed. Plaintiff stopped. TWENTY-THREE hesitated then walked slowly past Plaintiff. After TWENTY-THREE passed, Plaintiff continued to walk about ten feet behind TWENTY-THREE. TWENTY-THREE then slowed his pace almost to a stop. Plaintiff walked quickly past TWENTY-THREE for about another half block. TWENTY-THREE followed briskly. Plaintiff stopped at a sidewalk book display. TWENTY-THREE then stopped and looked in the window of a closed tailor shop. While pretending to look at the books, Plaintiff took out his camera then resumed walking westbound for five or so paces. TWENTY-THREE followed, whereupon Plaintiff quickly turned around and snapped a photograph of TWENTY-THREE, with the flash. TWENTY-THREE said nothing and walked past Plaintiff.

77. The FBI has had the identity of Defendant TWENTY-THREE since at least as of November 6, 1995.

78. On **Monday, October 30, 1995** at around noon, four days after the harassment began, and three days after the OIC and FBI received actual notice of it, BRANSFORD finally telephoned Plaintiff and agreed to visit Plaintiff later that day. Plaintiff asked that BRANSFORD call Plaintiff in advance of his visit so Plaintiff's lawyer could be present.

79. That afternoon, BRANSFORD called from his car telephone while parked in front of Plaintiff's building. AGENT BRANSFORD reluctantly agreed to wait to visit until Plaintiff contacted his lawyer and his lawyer arrived. Plaintiff hung up the phone then picked it up to telephone his lawyer. Plaintiff's telephone line was dead.

80. AGENT BRANSFORD arrived at Plaintiff's door two or three minutes later, whereupon AGENT BRANSFORD immediately remarked that 'If there was a phone tap on there, you'd never know it, they're totally undetectable.' After displaying his weapon, AGENT BRANSFORD refused to provide Plaintiff protection, explained that he worked under Fiske, that he was kept on under Starr, and that he worked with AGENT MONROE. During their conversation, AGENT BRANSFORD grinned at Plaintiff as if he knew exactly what had happened to Plaintiff. In response to Plaintiff's question whether Plaintiff should trust him, AGENT BRANSFORD responded, 'I don't know Mr. Knowlton, that's a good question.' Plaintiff ordered AGENT BRANSFORD out of his home, whereupon Plaintiff's telephone rang and his telephone service was immediately restored.

81. Upon information and belief, Plaintiff avers that AGENT BRANSFORD purposely disabled Plaintiff's telephone to prevent Plaintiff from contacting his lawyer, that AGENT BRANSFORD was carrying a wireless transmitter and that another FBI agent was monitoring their conversation, and that this other FBI agent called Plaintiff's telephone number t signal AGENT BRANSFORD to exit Plaintiff's apartment when Plaintiff became upset and ordered AGENT BRANSFORD out of Plaintiff's apartment.

82. The object of the aforementioned overt acts of AGENT BRANSFORD was to obstruct the investigation into the grand jury probe by further harassing and intimidating Plaintiff in an effort to intimidate, warn, destabilize and discredit him on the eve of his grand jury appearance.

83. On **Wednesday, November 1, 1995,** Plaintiff testified before a District of Columbia federal grand jury investigating the death of deputy White House counsel Vincent W. Foster. Prosecutors questioning Plaintiff during his grand jury appearance were apprised before Plaintiff's appearance of his reports of being harassed by 25 or more men. Upon information and belief, Plaintiff avers that Defendants accomplished their object of

discrediting Plaintiff. Prosecutors did not believe Plaintiff's bizarre account of being harassed, at one point asking Plaintiff to "tell us a little bit about the alleged harassment."

84. On **Thursday, November 2, 1995**, at about 3:30 p.m., as Plaintiff exited the elevator of his apartment building, Defendant TWENTY-FOUR stood outside with his back to the building. TWENTY-FOUR entered Plaintiff's building, made eye contact with Plaintiff, acted startled and immediately turned around and walked out the door. TWENTY-FOUR loitered in front of the building entrance. Plaintiff walked out the door and walked to his right, whereupon TWENTY-FOUR followed. Plaintiff continued to the corner and retrieved a paper from the newspaper box, looked up and saw TWENTY-FOUR looking down and reaching into his bag with his right hand. TWENTY-FOUR looked up and made eye contact with Plaintiff and immediately yanked his hand out of the bag and dropped the bag to his side. After Plaintiff and TWENTY-FOUR walked past one another, Plaintiff reversed course and walked toward TWENTY-FOUR, whereupon TWENTY-FOUR turned and ran.

85. As Plaintiff observed TWENTY-FOUR reach into his bag, Plaintiff reasonably believed TWENTY-FOUR intended to retrieve a handgun and to shoot Plaintiff.

Count I
(Conspiracy to interfere with Civil Rights in violation of 42 U.S.C. § 1985(2), Obstructing justice)
All Defendants

86. Plaintiff incorporates paragraphs 1 through 85 as if fully repeated here.

87. All Defendants acted to violate statutory rights vested in Plaintiff, or acted with intent to cause Plaintiff harm or damage.

88. Defendants, and each of them, commenced by express or implied agreement, concert of action, communications, and meeting of the minds, a conspiracy to harass, intimidate, and

psychologically attack Plaintiff by means of overt acts intended to accomplish the objects of the conspiracy, to wit, to obstruct justice by deterring Plaintiff from testifying freely, fully and truthfully before the grand jury by intimidating and warning him, and to destabilize Plaintiff and to discredit Plaintiff.

89. The continuous and persistent course of Defendants' intentional wrongful conduct establishes that the entire course of conduct was a single continuing action, and that there was a meeting of the minds between two or more Defendants.

90. Each Defendant designated herein is responsible in some way for overt acts of his fellow conspirators. Accordingly, each allegation against an individual named Defendant should be read to include and be made against all Defendants, and all Defendants are therefore jointly and severally liable for Plaintiff's compensatory damages.

91. Acts alleged herein were violations of 42 U.S.C. § 1985(2) as overt acts of two or more Defendants in furtherance of a conspiracy to deter by intimidation or threat, Plaintiff, a grand jury witness in US District Court for the District of Columbia, from attending the grand jury proceeding, or from testifying to matters pending therein freely, fully, and truthfully.

92. Wrongful acts of Defendant TWENTY-FOUR constitutes a violation of 42 U.S.C. § 1985, prohibiting conspiracy to retaliate against and to injure Plaintiff on account of his having attended and testified as a witness in a Court of the United States.

93. Conduct alleged supports Plaintiff's belief that the overall object of the conspiracy was to obstruct the investigations into the death of Vincent W. Foster, or to prevent or obstruct investigation into an FBI cover-up, or both.

94. Defendants' outrageous wrongful conduct was willful, wanton, oppressive, and in reckless disregard of the civil rights of Plaintiff, entitling Plaintiff to an award of punitive damages.

95. Plaintiff urges all who publicize the facts of this case to exercise due decorum and not to publisize the names of other civilian witnesses in Fort Marcy Park without obtaining their prior permission.. Plaintiff wishes to express his regret to the Foster family for distress associated with bringing this suit.

WHEREFORE, Plaintiff Patrick James Knowlton demands that judgment be entered in his favor:

(1) Against all Defendants, jointly and severally, compensatory damages in the amount OF ONE HUNDRED THOUSAND DOLLARS ($100,000);

(2) Against Defendant United States, separately, punitive damages in the amount of ONE MILLION DOLLARS ($1,000,000);

(3) Against all other Defendants, separately, punitive damages in the amount of ONE HUNDRED THOUSAND DOLLARS ($100,000); and

(4) Against all Defendants, jointly and severally, an amount equal to reasonable Attorneys' fees and costs associated with the prosecution of this suit, pursuant to 42 U.S.C. § 1988.

Count II
(Intentional Infliction of Emotional Distress)
All Defendants

96. Plaintiff incorporates paragraphs 1 through 95 as if fully repeated here.

97. As a further object of the conspiracy, Plaintiff avers that Defendants, and each of them, intended to subject Plaintiff to severe emotional distress and harm.

98. By virtue of and as a direct and proximate cause of Defendants' intentional wrongful conduct, Plaintiff suffered, continues to suffer, and probably will suffer in the future, severe emotional distress. Defendants' wrongful conduct has had a significant effects on Plaintiff's overall well-being, which effects include but are not limited to: (a) depression and anxiety; (b) stomach and intestinal disorders and sleep and appetite disturbances; (c) loss of interest in sexual and exercise and other routines; (d) an exaggerated startle response; (e) impaired concentration, withdrawal, irritability, preoccupied and tense moods; (f) intense fear of personal harm and feelings of being overwhelmed and vulnerable, loss of confidence and feelings of degradation and shame; and (g) lost wages.

WHEREFORE, Plaintiff Patrick James Knowlton demands that judgment be entered in his favor:

(1) Against all Defendants, jointly and severally, compensatory damages in the amount OF ONE HUNDRED THOUSAND DOLLARS ($100,000);

(2) Against Defendant United States, separately, punitive damages in the amount of ONE MILLION DOLLARS ($1,000,000); and

(3) Against all other Defendants, separately, punitive damages in the amount of ONE HUNDRED THOUSAND DOLLARS ($100,000).

Count III
(Assault)
Defendants FIVE, SIX, SEVEN, EIGHT, NINE, TEN, FOURTEEN,
FIFTEEN, SIXTEEN, SEVENTEEN, NINETEEN, TWENTY, TWENTY-FOUR

99. Plaintiff incorporates paragraphs 1 through 98 as if fully repeated here.

100. As a direct and proximate cause of the threatened use of imminent harmful physical force and other physical displays by Defendants FIVE, SIX, SEVEN, EIGHT, NINE, TEN, FOURTEEN, FIFTEEN, SIXTEEN, SEVENTEEN, NINETEEN, TWENTY, TWENTY-FOUR, Plaintiff reasonably feared immediate and severe bodily harm.

WHEREFORE, Plaintiff Patrick James Knowlton demands that judgment be entered in his favor, against Defendants FIVE, SIX, SEVEN, EIGHT, NINE, TEN, FOURTEEN, FIFTEEN, SIXTEEN, SEVENTEEN, NINETEEN, TWENTY, and TWENTY-FOUR:

(1) Jointly and severally, compensatory damages in the amount of FIFTY THOUSAND DOLLARS ($50,000); and

(2) Separately, punitive damages in the amount of TEN THOUSAND DOLLARS ($10,000).

Count IV
(Battery)
Defendants EIGHT and NINETEEN

101. Plaintiff incorporates paragraphs 1 through 100 as if fully repeated here.

102. Conduct of Defendants EIGHT and NINETEEN was an offensive, harmful, offensive touching, and was a battery.

WHEREFORE, Plaintiff Patrick James Knowlton demands that judgment be entered in his favor, against Defendants EIGHT and NINETEEN:

(1) Jointly and severally, compensatory damages in the amount of ONE THOUSAND DOLLARS ($1,000); and

(2) Separately, punitive damages in the amount of TEN THOUSAND DOLLARS ($10,000).

Counts V
(Civil Conspiracy)
All Defendants .

103. Plaintiff incorporates paragraphs 1 through 102 as if fully repeated here.

104. The facts alleged constitute a civil conspiracy. Wrongful acts alleged herein were overt acts of two or more Defendants in furtherance of a civil conspiracy.

WHEREFORE, Plaintiff Patrick James Knowlton demands that judgment be entered in his favor, against Defendants EIGHT and NINETEEN:

(1) Jointly and severally, compensatory damages in the amount of ONE THOUSAND DOLLARS ($1,000); and

(2) Separately, punitive damages in the amount of TEN THOUSAND DOLLARS ($10,000).

Counts V
(Civil Conspiracy)
All Defendants .

103. Plaintiff incorporates paragraphs 1 through 102 as if fully repeated here.

104. The facts alleged constitute a civil conspiracy. Wrongful acts alleged herein were overt acts of two or more Defendants in furtherance of a civil conspiracy.

WHEREFORE, Plaintiff Patrick James Knowlton demands that judgment be entered in his favor:

(1) Against all Defendants, jointly and severally, compensatory damages in the amount of ONE

HUNDRED THOUSAND DOLLARS ($100,000);

(2) Against Defendant United States, separately, punitive damages in the amount of ONE MILLION DOLLARS ($1,000,000); and

(3) Against all other Defendants, separately, punitive damages in the amount of ONE HUNDRED THOUSAND ($100,000).

Plaintiff demands trial by jury.

Respectfully submitted,

/S/

John H. Clarke
Bar # 388599
Attorney for Plaintiff
1730 K Street, NW
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(202) 332-3030

Appendix D **Plaintiff's Statement of Genuine Issues and material facts in dispute Filed: June 6, 1997**

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

PATRICK JAMES KNOWLTON	)	
	)	
Plaintiff,	)	
	)	
v.	)	CA No. 96-2467
	)	(NHJ)
FBI AGENT RUSSEL T. BRANSFORD, et. al,	)	
	)	
Defendants.	)	
	)	

PLAINTIFF'S STATEMENT OF GENUINE
ISSUES AND MATERIAL FACTS IN DISPUTE

Pursuant to Rule 108(h) of the local Rules of the United States District Court for the District of Columbia, Plaintiff submits the following statement of material facts to which there is a genuine issue.

1. Whether during the course of two separate interviews, Defendant Monroe repeatedly tried to obtain an admission from Plaintiff that Foster's car "could have" been in the parking lot when he was there;[1]

[1] Complaint, Paragraph 18: "On April 15, 1994, AGENT MONROE, while assigned to the Office of Special Counsel under Robert B. Fiske, Jr., interviewed Plaintiff. While showing Plaintiff six or more photographs of Foster's car, AGENT MONROE questioned Plaintiff in excess of 15 times in various ways whether the Honda he saw with Arkansas license plates (in the same parking space where Foster's Honda was later found) could have been Foster's 1989 taupe colored Honda. Plaintiff repeatedly and adamantly responded no..."

2. Whether having failed to obtain that admission, Defendant Monroe falsified Plaintiff's statements[2] and

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[2] Complaint, Paragraph 19: "On May 11, 1994, AGENT MONROE interviewed Plaintiff a second time. AGENT MONROE again repeatedly questioned Plaintiff whether the Honda he saw could have been Foster's 1989 taupe colored Honda, this time while showing Plaintiff reports of statements of other witnesses. Each time Plaintiff responded no. During the interview, Plaintiff picked out two car color panels in the FBI laboratory, which were [of]... a 1983 and 1984 Honda..."

Complaint, Paragraph 20: "Subsequent to interviewing Plaintiff, AGENT MONROE prepared reports of Plaintiff's statements. Having failed to obtain an admission from Plaintiff that the Honda Plaintiff saw could have been Foster's 1989 taupe colored Honda, AGENT MONROE, knowingly and with specific intent to obstruct justice, falsified Plaintiff's account of the 1983 or 1984 rust-brown Honda Plaintiff observed. AGENT MONROE stated that Plaintiff *"identified this particular vehicle as a 1988 to 1990... Honda with Arkansas plates."* Because Plaintiff observed a Honda with Arkansas plates (similar to but *not Foster's*) approximately 70 minutes before the discovery of his body, in the same parking space where Foster's car was later found, Plaintiff's information refutes AGENT MONROE's sworn conclusion that Mr. Foster committed suicide in Fort Marcy Park."

Complaint, Paragraph 30: "Having failed to obtain an admission from Plaintiff that the car he saw could have been Mr. Foster's, AGENT MONROE falsified his reports of Plaintiff's statements to conceal Plaintiff's account..."

Complaint, Paragraph 28(b):

Plaintiff also expected to testify about the FBI 302 Reports of his statements, prepared in April and May of 1994 by AGENT MONROE while assigned to the Office of Special Counsel under Robert Fiske. Specifically, Plaintiff expected to testify:

(1) Referring to the man in the blue-gray sedan, the FBI report states that Plaintiff *"could not further identify this particular individual nor his attire and stated that he would be unable to recognize him in the future."* Plaintiff told the FBI interviewers just the opposite;

(2) The FBI Report states that Plaintiff identified the blue-gray sedan as having "*Virginia license plates...*"

asked Plaintiff him not go to the Press;[3]

3. Whether the FBI subpoenaing Plaintiff (by Defendant Bransford) was in immediate response to the publication that the FBI falsified their reports of his statements;[4]

4. Whether Plaintiff was harassed by 25 or more men, and whether this was intended to intimidate Plaintiff in violation of 42 USC § 1985(2);[5]

5. Whether because the grand jury subpoena was known only

Plaintiff told the FBI that he hadn't seen the license plates on that car;

(3) Regarding the contents of the rust-brown Honda, the 302 states that Plaintiff "*could furnish no other descriptive data regarding the vehicle or for that matter the contents located within the vehicle.*", thus omitting that Plaintiff reported seeing two wine cooler bottles on the back seat; and

(4) Referring to the rust-brown Honda, the 302 stated Plaintiff *"identified this particular vehicle as a 1988 to 1990... Honda with Arkansas plates."* Plaintiff responded over 20 times that the Honda he saw was older and a different color than Foster's 1989 Honda.

3 Complaint, Paragraph 18: "...At the conclusion of the interview, AGENT MONROE asked Plaintiff 'not to go to the press' with his story. Soon thereafter, in accordance with AGENT MONROE's request, Plaintiff declined an on-air interview with radio talk show host G. Gordon Liddy."

4 Complaint, Paragraph 27: "Four days after this article [alleging 'out-right lies' by the FBI] was published overseas, and two days after it was available in the United States, on Thursday, October 26, 1995, Plaintiff was served a subpoena by AGENT BRANSFORD to appear and testify before the Washington, DC, Whitewater grand jury six days later..."

5 Complaint, Paragraph 91: "Acts alleged herein were violations of 42 U.S.C. § 1985(2) as overt acts of two or more Defendants in furtherance of a conspiracy to deter by intimidation or threat, Plaintiff, a grand jury witness in US District Court for the District of Columbia, from attending the grand jury proceeding, or from testifying to matters pending therein freely, fully, and truthfully."

to the FBI and the Office of Independent Counsel, only these government entities had the opportunity to commit the 42 USC § 1985(2) violations alleged;[6]

6. Whether the FBI failed and refused to respond to Plaintiff's pleas for help until after the harassment had ceased and whether this failure was to facilitate the 42 U.S.C. § 1985(2) violation alleged;[7]

7. Upon finally responding by telephone and scheduling an appointment to visit Plaintiff, whether Defendant Bransford tried to talk Plaintiff out of having counsel present, and whether this action was intended to give Defendant Bransford the opportunity to further intimidate Plaintiff unhindered by the presence of counsel;[8]

8. Whether Defendant Bransford's appearance in front of Plaintiff's residence (without prior notice as agreed) was intended to give Defendant Bransford the opportunity to further intimidate Plaintiff unhindered by the presence of counsel;[9]

---

6 Complaint, Paragraph 31: Beginning later the same day AGENT BRANSFORD served Plaintiff the subpoena, Thursday, October 26, 1995, which subpoena was known only to the FBI and the Office of Independent Counsel, Defendants, and each of them, began a campaign of harassment, intimidation..."

7 Complaint, Paragraph 78: "On Monday, October 31, 1995 at around noon, four days after the harassment began, and three days after the FBI received actual notice of it, AGENT BRANSFORD telephoned Plaintiff and agreed to visit Plaintiff later that day..."

8 Complaint, Paragraph 78: "AGENT BRANSFORD reluctantly agreed to call Plaintiff in advance of his visit so Plaintiff's lawyer could be present."

9 Complaint, Paragraphs 79: "That afternoon AGENT BRANSFORD called from his car phone while parked in front of Plaintiff's building."

9. Whether Defendant Bransford again tried to talk Plaintiff out of having counsel present, and whether this action was intended to give Defendant Bransford the opportunity to further intimidate Plaintiff unhindered by the presence of counsel;[10]

10. Whether Defendant Bransford did not wait 15 minutes (as agreed) but rather knocked on Plaintiff's door approximately three minutes later, and whether these actions were intended to give Defendant Bransford the opportunity to further intimidate Plaintiff unhindered by the presence of counsel;[11]

11. Whether Defendant Bransford disabled Plaintiff's telephone and whether this was intended to prevent Plaintiff from contacting counsel to give Defendant Bransford the opportunity to further intimidate Plaintiff unhindered by the presence of counsel;[12]

12. Upon arriving at Plaintiff's residence, whether Defendant Bransford: immediately remarking about a telephone tap; unbuttoned his suit jacket so as to display his gun; grinned at Plaintiff during the entire visit as if he knew exactly what Plaintiff had suffered; informed Plaintiff that he worked with agent Monroe; and in response to the question whether Plaintiff could trust him, answered, "I don't know Mr. Knowlton, that's a good question," and whether these actions were intended to intimidate Plaintiff;[13]

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10 Complaint, Paragraphs 79: "AGENT BRANSFORD reluctantly agreed to wait to visit until Plaintiff contacted his lawyer and his lawyer arrived..."

11 Complaint, Paragraphs 79: "Plaintiff hung up the phone then picked it up to telephone his lawyer. Plaintiff's telephone line was dead."

12 Complaint, Paragraph 81: "Upon information and belief, Plaintiff avers that AGENT BRANSFORD purposely disabled Plaintiff's telephone to prevent Plaintiff from contacting his lawyer..."

13 Complaint, Paragraph 80: "AGENT BRANSFORD arrived at Plaintiff's

13. Whether the record of the conspirators contact with one another[14] sufficiently gives rise to the inference of conspiratorial intent or agreement[15] or overall objective;[16]

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door two or three minutes later, whereupon AGENT BRANSFORD immediately remarked that 'If there was a phone tap on there, you'd never know it, they're totally undetectable.' After displaying his weapon, AGENT BRANSFORD refused to provide Plaintiff protection, explained that he worked under Fiske, that he was kept on under Starr, and that he worked with AGENT MONROE. During their conversation, AGENT BRANSFORD grinned at Plaintiff as if he knew exactly what had happened to Plaintiff. In response to Plaintiff's question whether Plaintiff should trust him, AGENT BRANSFORD responded, 'I don't know Mr. Knowlton, that's a good question.' Plaintiff ordered AGENT BRANSFORD out of his home, whereupon Plaintiff's telephone rang and his telephone service was immediately restored."

Complaint, Paragraph 82: "The object of the aforementioned overt acts of AGENT BRANSFORD was to obstruct the investigation into the grand jury probe by further harassing and intimidating Plaintiff in an effort to intimidate, warn, destabilize and discredit him on the eve of his grand jury appearance."

14 Complaint, Paragraph 6: "Defendant Bransford was formerly assigned to the Office of Independent Counsel under Robert W. Fiske, Jr., where Defendant Bransford worked with Defendant FBI Agent Larry Monroe..."

15 Complaint, Paragraph 88: "Defendants, and each of them, commenced by express or implied agreement, concert of action, communications, and meeting of the minds, a conspiracy to harass, intimidate, and psychologically attack Plaintiff by means of overt acts intended to accomplish the objects of the conspiracy, to wit, to obstruct justice by deterring Plaintiff from testifying freely, fully and truthfully before the grand jury by intimidating and warning him, and to destabilize Plaintiff and to discredit Plaintiff."

Complaint, Paragraph 89: "The continuous and persistent course of Defendants' intentional wrongful conduct establishes that the entire course of conduct was a single continuing action, and that there was a meeting of the minds between two or more Defendants."

16 Complaint, Paragraph 93: "Conduct alleged supports Plaintiff's belief

14. Whether the 42 U.S.C. § 1985(2) violation alleged were intended to obstruct justice into the investigation of the death of deputy White House counsel Vincent W. Foster. (Complaint, Paragraph 2).

15. Whether Defendants Bransford and Monroe participated in the obstruction of justice into the investigation of the death of deputy White House counsel Vincent W. Foster. (Complaint, Paragraph 2).

16. Whether Defendants Monroe and Bransford are vicariously liable for the 42 U.S.C. § 1985(2) violation alleged to have been committed by Defendants John Does and Alouris because these violations could be reasonably foreseen as a necessary or natural consequence of the conspiracy to obstruct justice.[17]

17. Whether Defendants' conduct by participation in the conspiracy violated clearly established law.[18]

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that the overall object of the conspiracy was to obstruct the investigations into the death of Vincent W. Foster, or to prevent or obstruct investigation into an FBI cover-up, or both."

17 Complaint, Paragraph 4: "... Because the overt acts directed at Plaintiff were the reasonably foreseeable, necessary and natural consequences of the conspiracy when entered into, each member of the conspiracy is liable for Plaintiff's damages by virtue of his membership in the conspiracy."

Complaint, Paragraph 90: "Each Defendant designated herein is responsible in some way for overt acts of his fellow conspirators. Accordingly, each allegation against an individual named Defendant should be read to include and be made against all Defendants, and all Defendants are therefore jointly and severally liable for Plaintiff's compensatory damages."

18 Complaint, Paragraph 30: "Having failed to obtain an admission from Plaintiff that the car he saw could have been Mr. Foster's, AGENT MONROE falsified his reports of Plaintiff's statements to conceal Plaintiff's account. When a story was published that AGENT MONROE concealed the fact that the car Plaintiff saw was not Foster's, and that AGENT MONROE and the FBI falsified Plaintiff's account, Defendants

18. Whether Defendants intended to subject Plaintiff to severe emotional distress and harm.[19]

Statement of Facts controverted by Plaintiff in Defendants' Statement of Material Fact Not in Dispute

19. The *other witnesses* who saw a car matching the description of Mr. Foster's 1989 light-gray Honda *described a car which arrived in the park after Plaintiff left*, not because Plaintiff "indicated" his "recollection" of the car he saw "looked like" an older model.[20]

20. The car color panels Plaintiff picked out at the FBI lab were not the panels 3499 and 3500[21] reported to the

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conspired and schemed to neutralize Plaintiff's statements, both made and anticipated. Defendants undertook to engage in conduct known in intelligence circles: To effect an overwhelming campaign of harassment and intimidation to neutralize any damage Plaintiff could do to the ongoing conspiracy to hide the circumstances of Mr. Foster's death, by:

(1) Intimidating and warning Plaintiff; and failing that, by

(2) Destabilizing and discrediting Plaintiff. This *modus operandi* is known in the intelligence community.

19 Complaint, Paragraph 97: "As a further object of the conspiracy, Plaintiff avers that Defendants, and each of them, intended to subject Plaintiff to severe emotional distress and harm."

20 Federal Defendants' Statement of Material Facts not in Dispute Paragraph 14 (hereinafter "Defendants' Statement"): "Defendant Monroe also participated in this [second] interview... prompted, in part, by statements from other witnesses which differed from plaintiff's recollection. These other descriptions of the Honda, present at Fort Marcy Park... matched Mr. Foster's automobile."

Defendants' Statement, Paragraph 26: "Since statements from other witnesses along with the first FD-302 expressed some confusion... a second interview was conducted... in order to clarify this issue."

OIC by Defendant Monroe.[22] Those panels describe a 1988 to 1990 charcoal gray Honda. The car color panels Plaintiff picked out corresponded to a 1983 or 1984 rust-brown Honda.

21. Plaintiff repeatedly unequivocally told Defendant Monroe that the car he saw was definitely not the same one depicted in the photographs. Plaintiff did not "indicate" that the car he saw "looked like" an older model.[23]

22. Plaintiff told the agents that he could identify the man he saw in the park, contrary to what Defendant Monroe reported.[24]

23. Christopher Ruddy was not the only witness to the harassment Plaintiff suffered. Mr. Ruddy is an investigative journalist whose focus on the Foster

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21 Defendants' Statement, Paragraph 27: "The Independent Counsel's Office was advised that the witness had the opportunity to match paint panels to the vehicle in question, at the FBI Headquarters, and a description of the identified panels were provided to the Independent Counsel's Office."

22 Defendants' Statement, Paragraph 14: "The plaintiff was provided the opportunity to review paint panels at FBI Headquarters in order to confirm the car's color. The plaintiff's statements and observations were provided to the Independent Counsel's Office by defendant Monroe."

See Plaintiff's Affidavit: "On December 1, 1995, FBI agent James Clemente showed me the car color panel which was apparently the same panel that agent Monroe reported I had picked. That panel was charcoal gray, not rust brown with a dull finish.

23 Defendants' Statement, Paragraph 11: "After reviewing photographs of Mr. Foster's automobile, the plaintiff indicated that the car he saw looked like an older model. The plaintiff also stated that he saw a jacket and a briefcase in this vehicle."

24 Defendants' Statement, Paragraph 12: "...This information [regarding the man Plaintiff saw in the park] was part of the data provided to the Independent Counsel's Office by defendant Monroe as a result of the plaintiff's interview."

death is the forensic evidence and the techniques employed by investigators, who has *never proffered any conspiracy theory,*[25] contrary to Defendants' assertion. Mr. Ruddy heard about the harassment Plaintiff was suffering and came to visit Plaintiff to investigate (while the FBI was ignoring Plaintiff's pleas for help). Prior to this visit by Mr. Ruddy, Plaintiff had never heard of Christopher Ruddy.[26]

24. Plaintiff's allegations of obstruction of justice into the investigation into Mr. Foster's death stem from the 42 U.S.C. § 1985(2) violation alleged.[27]

25. Plaintiff's Report of Witness Tampering proffers *no* conspiracy theory, and that report is not for sale.[28]

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25 Defendants' Statement, Paragraph 20: "The sole specifically named 'witness' to the 'PsychOps' is Christopher Ruddy. Mr. Ruddy is a conspiracy theorist who has written a considerable number of articles concerning his view of the circumstances surrounding the death of Vincent Foster."

Defendants' Statement, Paragraph 21: Mr. Ruddy, a former New York Post reporter... has set forth his conspiracy theories at least as far back as early 1994... Mr. Ruddy has been writing about, and profiting from, this conspiracy theory long before his alleged 'witnessing' of events set forth in plaintiff's amended complaint."

26 Plaintiff's Affidavit: "Before Christopher Ruddy came to my apartment on October 26, 1995 I had never heard of Christopher Ruddy.

27 See Plaintiff's Affidavit: "After I provided my information to the Park Police, and was not further contacted, I thought my information was irrelevant. After I was interviewed by the FBI, I heard that Mr. Foster's death was a suicide at Fort Marcy Park, and I believed it. I did not follow the Whitewater hearings or the news regarding Mr. Foster's death."

Defendants' Statement, Paragraph 7: "Plaintiff's allegations in his amended complaint stem from his conspiracy theory arising from the death of Mr. Foster..."

Defendants' Statement, Paragraph 19: "Plaintiff believes the entire 'conspiracy' was part of 'psychological operations' by the defendants or, as he calls it, 'PsychOps'"

26. Plaintiff has no idea whether what, if any, information he provided to Defendant Monroe was turned over to the Office of Independent Counsel, contrary to Defendant's repeated claims that Defendant did provide the information. Plaintiff knows, however, that he identified the year of the car as a 1983 or 1984 year-model by picking out these corresponding car color panels in the FBI laboratory. And Plaintiff knows that the FBI 302 report of his interview states that he identified the car as a "1988 to 1990" year-model. Mr. Foster's car was reportedly a 1989 year model.

Respectfully submitted,

/S/

John H. Clarke
Bar # 388599
Attorney for Plaintiff
1730 K Street, NW
Suite 304
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(202) 332-3030.

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[28] Defendants' Statement, Paragraph 21: "...[P]laintiff Knowlton also is selling a manuscript concerning his conspiracy theory through the internet [sic] and a toll-free number."

Plaintiff's Affidavit: The *"Report of Witness Tampering,"* written by my lawyer and myself, recites that "This Report offers no theory about the death of Vincent Foster," which it does not. It further states the purpose for its publication; "To protect Knowlton from further harm by publicizing the harassment and to establish that Knowlton is credible and stable..., [to provide] investigators with all available details to aid them in their pursuit of the wrongdoers... and to defray the significant costs of its production." That Report was offered for sale only from March through August, 1996.

Appendix E **Memorandum of Points & Authorities in Opposition to Defendants' motion for Summary Judgment**
Filed: June 6, 1997

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

PATRICK JAMES KNOWLTON	)	
	)	
Plaintiff,	)	
	)	
v.	)	CA No. 96-2467
	)	(NHJ)
FBI AGENT RUSSEL T. BRANSFORD, et. al,	)	
	)	
Defendants.	)	
	)	

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In their motion for summary judgment, defendants contend:

(A) "The sole specifically named witness... is Christopher Ruddy" (paragraph 20 of defendants' statement of material facts not in dispute);

(B) "[P]laintiff nowhere alleges how the... FD-302's are tied to his [conspiracy] claim under 42 U.S.C. § 1985(2)..." (page 17 of defendants' motion);

(C) "Plaintiff's claims... are delusional" (page 22 of defendants' motion); and

(D) "[N]o conspiracy existed" (page 12 of defendants' motion).

Plaintiff submits the evidence of:

(A) Facts alleged;

(B) Applicability of section 1985(2);

(C) Plaintiff's mental stability; and

(D) Conspiracy alleged.

A. PROOF OF FACTS ALLEGED

Exhibit 1: The Affidavit of Plaintiff's girlfriend (a Ph.D. consultant and educator), who witnessed the harassment of Thursday, October 26 and the morning of October 27, 1995, states in part:

> *"[A]t one point, I became so panic-stricken that I had to keep from crying. I have never witnessed anything like it before or since. It was intentional, coordinated, intimidating, and extremely unnerving;"*

Exhibit 2: Plaintiff's Affidavit;

Exhibit 3: The sworn to opinion of Plaintiff's polygraph examiner, Mr. Paul Minor,[30] wherein he reported:

"deception not indicated;"

Exhibit 4: Affidavit of the reporter who witnessed the harassment on Friday afternoon, October 27, who described it as an:

"obvious attempt to intimidate."

B. PROOF OF APPLICABILITY OF SECTION 1985(2)

Exhibit 5: Mr. Gene Wheaton, a 40-year veteran investigator stated:

"[In his] opinion, the actions described in the Amended Complaint were intended to intimidate Plaintiff to try to prevent him from testifying freely, fully, and truthfully;[31]*"*

Exhibit 6: Mr. Ted L. Gunderson, a 28-year veteran of the FBI and former Senior Special Agent in Charge of the FBI's Los Angeles

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30 Mr. Minor was the chief polygraph examiner for the FBI for nine years.

31 Mr. Wheaton reports: "I have... over 40 years in the criminal justice system, including... security projects related to intelligence. I have qualified as an expert witness... In part because of my close association with the Chief, Assessment Branch, CIA, I became extremely knowledgeable of psychological operations (PsycOps) and techniques of the intelligence community... there are various methods and purposes in conducting surveillance... Intimidation is one purpose of a close, obvious surveillance... This case appears to be the misuse of surveillance techniques to scare and intimidate the witness or to destroy his credibility... could be expected in the area of illegal intelligence operations ...to make him appear paranoid and thus destroy credibility as a witness... I have used this technique... Mr. Clarke has asked me to render an opinion on the following question: Was one of the purposes of the actions described in the Amended Complaint to intimidate Mr. Knowlton to try to prevent him from testifying freely, fully, and truthfully? In my opinion, provided the events reported in the Amended Complaint are accurately portrayed, my answer is yes.

Division, wrote that he is familiar with the technique of intimidation Plaintiff suffered.

> *"This technique is used for intimidation and to prevent a witness from testifying and/or testifying truthfully and/or cooperating with officials out of fear of harm to the witness or his loved ones. I have knowledge of this tactic and know of instances when it has been used."*[32]

C. PROOF OF PLAINTIFF'S MENTAL STABILITY

Exhibit 7: The sworn-to opinion of an expert psychiatrist, who after a complete psychiatric examination of Plaintiff, including psychological testing, concluded:

> *"[There is] no indication of a paranoid process or of any other pathological process that would tend to undermine Mr. Knowlton's credibility in this instance."*[33]

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32 Mr. Gunderson reports: "Since my retirement in 1979 as Senior Special Agent in Charge of the FBI, Los Angeles Division, I have testified many times as an expert witness in both civil and criminal matters... Mr. Knowlton's allegations of harassment... is a technique that I am both aware of and knowledgeable about which is used by government agents and law enforcement officers. This technique is used for intimidation and to prevent a witness from testifying and/or testifying truthfully and/or cooperating with officials out of fear of harm to the witness or his loved ones. I have knowledge of this tactic and know of instances when it has been used."

33 Dr. Goldman is a Harvard trained psychiatrist. He also reported on the capability of Plaintiff's memory.

> Mr. Knowlton was clearly in a state of high alert from perceived danger. In such a state, perceptions are generally heightened intensity and powers of concentration and recall can be greatly enhanced.... Mr. Knowlton was administered the Wechsler Memory Scale... a standardized, widely used and well respected instrument. The results indicated that... his performance on Visual Reproduction subtests 1 and 2 was quite superior. In these tests... [Mr. Knowlton placed] in the 90th percentile (that is, he scored better than nine out of ten people

D. PROOF OF THE CONSPIRACY ALLEGED

Plaintiff proffers 118 exhibits in support of his conspiracy claim, 100 of which are part of the publicly-available record in the Foster case.[34] Excerpts from that record follow.

A paragraph in Plaintiff's Second Amended Complaint[35]

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in the general population would be expected to score). This test result demonstrates Mr. Knowlton has unusually good powers of delayed recall of visually-presented stimuli...

[34] These public records were photocopied from:

(1) *Report of Independent Counsel in re Vincent W. Foster, Jr.* ("Fiske Report"), public as of June 30, 1994;

(2) *Hearings Relating to Madison Guaranty S&L and the Whitewater Development Corporation - Washington, DC Phase* (redacted) ("S. Hrg. 103-889") Volumes I & II (on the death of Vincent W. Foster, Jr.) & XIV, dated July 29, 1994, available from the Senate Banking Committee document clerk in January, 1995;

(3) *Report of the Committee on Banking, Housing and Urban Affairs United States Senate on the Inquiry into the U.S. Park Police Investigation of the death of White House Deputy Counsel Vincent W. Foster, Jr.*, ("Rept. 103-433"), available from the Senate Banking Committee document clerk in January, 1995;

(4) FBI handwritten notes (redacted) taken by FBI agents assigned to the investigation of regulatory Independent Counsel Robert B. Fiske, Jr., that were used in the preparation of (redacted) typewritten witness statements (known as "FD-302s"), provided pursuant to the Freedom of Information Act (date of request July 12, 1995) on or about March 4, 1996; and

(5) *Investigation of the White House Travel Office Firings and Related Matters* ("House Report 104-849"), September 26, 1996.

Those Exhibits which are *not* part of the official public record in this case are denoted by an *asterisk.

[35] Plaintiff awaits the Court's ruling on defendants' dispositive motions prior to filing his Second Amended Complaint

alleges that the FBI "Falsified form FD-302 Witness Statement Reports; withheld material information from the Office of Independent Counsel under Robert Fiske; withheld material information from the Senate Banking Committee; [and] withheld material information from the Office of Independent Counsel under Kenneth Starr." The paragraph goes on to list twenty overt acts in furtherance of the conspiracy to obstruct justice (exclusive of the section 1985(2) violation alleged). This list of overt acts is reprinted below. After each allegation appears a recitation of evidence in support of that allegation, which evidence is excerpted from the Exhibits attached hereto. Some of the following overt acts committed in furtherance of the conspiracy to obstruct justice are ostensibly not directly attributable to the FBI. These acts are indirectly attributable to the FBI since the FBI provided (and withheld) evidence to the nominal authors of the Fiske Report. The report attributed to Fiske was for the most part little more than a summary of an FBI investigation, as is clear from the following excerpt from the Fiske Report.

> ***"The Federal Bureau of Investigation ('FBI') provided substantial and invaluable support in this investigation.*** *The FBI assigned seven experienced agents to the Independent Counsel's Washington office, all of whom have worked exclusively with this office for approximately the last four months."*

When the Senate Committee on Banking, Housing and Urban Affairs conducted its brief hearing on the Foster death,[36] it was not Fiske who appeared to defend it, but rather FBI agents Lawrence Monroe and William Colombell.

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[36] Under Senate Resolution 229, the purview of those hearings regarding the Foster death was limited to the Park Police investigation. The Committee was *precluded* from independently exploring the issue of how Mr. Foster died.

(a) The initial FBI investigation

(1) The FBI failed to conduct an official investigation in violation of 18 USC 1751.

EVIDENCE (Exhibit 8):

Exhibit 8: The **Fiske Report** recites that the FBI did not exercise jurisdiction over the initial investigation of Mr. Foster's death because its "*preliminary inquiry...* failed to indicate any criminal activity... [and so] the FBI did not determine whether Foster was covered..." by Title 18, United States Code, Section 1751, which would have mandated that the FBI investigate if Mr. Foster's death had been the result of criminal activity.

> ***Based on a preliminary inquiry by the FBI which failed to indicate any criminal activity, the FBI's inquiry into this matter was closed.*** *At the request of this Office, the FBI reentered this investigation in February 1994.*
>
> *The FBI would have had primary investigative jurisdiction if the circumstances fell within the Presidential and Presidential Staff Assassination statute, Title 18, United States Code, Section 1751. That statute makes it a federal crime to, among other things, kill the President, Vice-President, or a specified number of persons appointed by the President or Vice-President. The statute further provides that violations shall be investigated by the FBI.*
>
> *I8 U.S.C. Section 1751 covers "any person appointed under section 105(a)(2)(A) of title 3 employed in the Executive Office of the President... Title 3, United States Code, Section 105(a)(2)(A) provides that the President may appoint twenty-five employees at a specified rate of pay.* ***Because the preliminary investigation by the FBI provided no indication of criminal activity, the FBI did not determine whether Foster was covered by this statute.***

Conclusion: It is apparent from a review of the publicly-available record[37] of the case that Mr. Foster's death (or movement of his body after his death) involved criminal activity. The FBI therefore should have *overtly* exercised primary jurisdiction.[38] Had the FBI found criminal activity while investigating for Mr. Fiske, that would mean that they violated the law by not exercising primary jurisdiction in July of 1993. Thus the FBI as an institution operated under a conflict of interest in the role it performed for the regulatory Independent Counsel Robert Fiske.

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(2) The FBI removed evidence from Mr. Foster's desk prior to 10:30 p.m. on July 21, 1993.

EVIDENCE (Exhibits 9, 10, 11, 12 & 13):

Exhibit 9: The **Fiske Report** stated that the Office of Independent Counsel ("OIC") reviewed all documentary evidence obtained from Mr. Foster's office.

> ***"This Office** also **reviewed** White House **documents** that were worked on by Foster, **found in his office**, or which otherwise related to Foster."*

Exhibit 10: By **U.S. Secret Service memorandum** dated August 3, 1993, two weeks after Mr. Foster's death, a U.S. Secret Service agent assigned to the T.S.D. (Technical Security Division), which maintains White House locks, video and other security equipment, reported to the supervisory agent in charge of the T.S.D. that an FBI agent and a uniformed division Secret Service agent told him: (a)

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37 The cited record of the Foster case was not available until, *inter alia*, the *Senate Hearings* volumes (redacted) became available to the public in January, 1995; the FBI handwritten notes (redacted) were produced in March of 1996; and the *Travel Office* documents became publicly-available on September 26, 1996.

38 An FBI memorandum contained in the *Travel Office* documents (HR 104-849, at 748) shows that two FBI agents were present when the inventory of the contents of Mr. Foster's office was conducted under the auspices of the U.S. Park Police investigation.

six FBI agents were working on the Foster death; (b) the FBI agents were investigating leads; (c) one of these leads had to do with a second letter; and (d) *the FBI had removed evidence from Foster's desk.*

> *I informed him [the F.B.I. agent] that I maintained the alarms, locks, video and other equipment for the White House...*
>
> *He [the FBI agent] then went on to state that he and some other* ***agents (5) were working on the Foster suicide...***
>
> *I told him [the FBI agent] that I had seen in the news that there was a note in his brief case. Hethen said that* ***they were working some other leads on some info they had received...***
>
> *I said something to the effect 'did it have anything to do with* ***what you found in his office?'*** *He* ***[the FBI agent] then said something about a second letter... maybe?***
>
> *...The Reason for the Officer there and the lock request to seal the office for the investigation. The [Uniformed Secret Service] officer then told us [the author and another T.S.D. officer] that* ***the F.B.I. had removed evidence from Mr. Foster's desk,*** *never inferring to [sic] what the evidence was.*

Exhibit 11: Another **U.S. Secret Service Memorandum** indicates that the locks were indeed changed, *after* the FBI removed the documents.

> *"INSTALL DEADBOLT ON 2nd WEST WING OFFICE DATE COMPLETED: 7/21/93 @ 2230 hrs."*

Exhibit 12: The **House Report Travel Office 104-849** states that the U.S. Park Police did not gain access to Foster's office until July 22.

"Spafford arrived at around 9:30 - 10 a.m. on 7/22... he understood they would be reviewed [sic] the contents of VF office with law enforcement people – Hamilton had told him the Park Police were involved."

Conclusion: The FBI removed evidence from Mr. Foster's desk the day after his death, prior to the locks being changed and before the U.S. Park Police were allowed to inspect the contents of his office.[39] Later the FBI was charged with investigating removal of documents from Mr. Foster's office.

(b) The U.S. Park Police investigation

(3) The FBI concealed that significant irregularities occurred during the U.S. Park Police investigation.

EVIDENCE (Exhibits 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32 & 33):

Exhibit 14: When FBI Agents **Larry Monroe and William Colombell testified before the Senate Banking Committee**, they

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[39] Exhibit 13: In his **testimony before the Senate Banking Committee on July 29, 1994, Defendant Monroe** declined to opine whether removal of documents by White House personnel from Mr. Foster's office would be obstruction of justice because he claimed the investigation into the matter was continuing. Presumably Monroe's response would also apply to any evidence removed by the FBI.

Senator Faircloth: "As a professional law enforcement officer would you infer from the removal of these documents the evening of Mr. Foster's death after the office was supposed to have been searched, would that constitute obstruction of justice?
Mr. Monroe: I can make no inference there, and that is going to be, and is, part of our continuing investigation, sir."

Senate Report 104-280 (June 17, 1996) specifically dealt with documents removed from Mr. Foster's office in the aftermath of his death. Curiously, this report makes no mention of the documents alleged to have been removed from Mr. Foster's office by the FBI.

were specifically asked whether there were any significant irregularities in the U.S. Park Police investigation. They responded in the negative.

> *Senator Dodd: ...in your professional capacities, I [sic] to use the word "significant" — **were there any "significant" irregularities in the Park Police investigation?***
> *Mr. Monroe: Your question, Senator, had to do with the Park Police and the response that I have to that is **we do not know of any significant irregularities**.*
> *Senator Dodd: Mr. Colombell?*
> *Mr. Colombell: I do not know of any.*

Exhibit 15: The **FBI Receipt for Property Received** reveals that only 13 Polaroids of the death scene survived; eight taken by US Park Police Officer Rolla and five taken by US Park Police Sergeant Bob Edwards. Many of Officer Rolla's Polaroids vanished and all of Officer Ferstl's Polaroids vanished. Ferstle's were the *first* photographs taken of any kind.

*Exhibit 16: The **written opinion of James H. Jones** is attached. Mr. Jones has over 45 years experience in police investigation, over 25 years of which in the area of forensic investigation. He is an educator and author, having written *Forensic Photography* and co-authored *Photography in Law Enforcement*. In Mr. Jones' opinion:

> *"It would be good internal procedure to treat these photographs as evidence and maintain chain of custody. It would be good internal procedure to investigate how these photographs vanished and determine who could have taken them."*

Exhibit 17: The **U.S. Park Police Investigator Rolla testified on deposition** that the 35 millimeter crime scene photographs taken by an experienced U.S. Park Police Evidence Technician were unusable.

Q. *Did you ever see the developed 35-millimeter photos that Simonello had taken?*

A. *No. Other than the two they enhanced and blew up and said these were the best ones they could do and were very dark. I couldn't make out too much.*

Exhibit 18: The lead **U.S. Park Police Investigator at the body site, John Rolla, testified on deposition** that Mr. Foster's palms were facing up, contrary to the depiction in the official crime scene photograph that was provided to the media (Exhibit 58 *infra*). That photograph shows the palm down.

Q. *You are indicating palms up?*

A. *Palms up, down by the side.*

Exhibit 19: The **deposition of U.S. Park Police officer Kevin Fornshill**, the first U.S. Park Police Officer to discover Mr. Foster's body, said he did not see a gun in Mr. Foster's hand.

Q. *What did you say?*

A. ***I said, no, I don't see any gun.***

Exhibit 20:, The **deposition of Kevin Fornshill**, the first official to locate Mr. Foster's body, said that members of a volunteer organization were repairing a trail in the park when he arrived. These people were never interviewed.

Q. *"Do you know if there were **any civilians there**?*

A. *There were a number of cars in the parking lot, and I was told later that some repair work on, I think it was, they were on the opposite end of the park. There's a nature **hiking trial that I imagine they were doing some work on**."*

*Exhibit 16: In his **written opinion, James H. Jones** opines that all witnesses should have been interviewed.

"All civilian witnesses should have been identified and interviewed."

Exhibit 21: The **U.S. Park Police Evidence / Property Control Receipts** shows that the briefcase which at least four witnesses saw in the Honda vanished, and so was not listed in the inventory.

Exhibit 22: The **FBI 302 of Emergency Medical Technician (hereinafter "paramedic") Richard Arthur** omitted the fact that the driver of a car in the lot when the first officials arrived drove away without being identified.[40] The following phrase, which appeared in the handwritten notes of an FBI interview with Mr. Arthur (see Exhibit 43 *infra*) is *omitted* from the typed version of that interview.

"Red car gone when he left" [omitted from 302]

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[40] Exhibit 23: Defendant Monroe's July 29, 1994 testimony before the Senate Banking Committee states that all park witnesses were interviewed.

*"We also **interviewed everyone known to have been in Fort Marcy Park** on the afternoon or evening of Mr. Foster's death."*

This is patently false: Numerous park witnesses were never interviewed including: (1) volunteers working on the trail; (2) men seen in and around the 1983 or 1984 rust-brown Honda; (3) a man in the blue-gray Japanese car seen by Plaintiff; (4) men seen getting dressed in the woods by paramedics; and (5) a jogger.

The FBI 302 Reports of the interviews with Civilian # 1 and Civilian # 2 [names deleted] (Exhibits 26 & 27) the two civilian witnesses in the park when authorities arrived (who request anonymity), reported that they saw two men in and around an older brown Honda at about 5:15 p.m. (which the Fiske report posits was Mr. Foster's Honda). The FBI 302 report of Civilian # 1 states: *"The hood of the vehicle was up and a **white male was standing in the vicinity of the vehicle.**"* The FBI 302 report of Civilian # 2 states: *"**He was 'big and burly'** and could have been **wearing bluejeans.**"* These two witnesses also described a jogger they saw in the park.

See also Exhibit 28, the FBI 302 report of the interview with paramedic Todd Hall, where he noted that both EMS and Fire and Rescue workers saw *"two males getting dressed in a wooded area adjacent to the sight."*

*Exhibit 16: In his **written opinion, James H. Jones** posits that under the circumstances, the crime scene should have included the parking lot.

> *It would have been reasonable to assume that a **vehicle in the parking lot, running, could have had something to do with the crime**. The police should have secured what they perceived to have been the crime scene. A car left the scene and should have not been allowed to leave. Therefore the entire crime scene was not secured.*

Exhibit 24: **U.S. Park Police Investigator Rolla's handwritten notes** lists a U.S. Secret Service uniformed officer and his White House phone number. This was apparently written around 6:40 p.m. Officially the White House was not informed until around 8:30 p.m.

> *"Lt. Walter 395-3466"*

*Exhibit 16: **James H. Jones opines** that the White House should have been immediately notified.

> *"Immediate notification of White House Security should have taken place."*

Exhibit 25: **U.S. Park Police Investigator Rolla testified on deposition** that Mr. Foster's body and car were present at Fort Marcy Park when he arrived at about 6:40 p.m., but the car keys were never found at the park. This was inconsistent with the U.S. Park Police theory of the death calling for Mr. Foster to have driven his Honda to Fort Marcy Park.

> *Q.* *"Did you get any keys?*
> *A.* ***I searched his pants pockets**. I couldn't find a wallet or nothing in his pants pockets... We searched the car and were puzzled why we found **no keys** to the car."*

Exhibit 29: The **FBI 302 of the interview with U.S. Park Police Investigator Rolla** showed that Mr. Foster's eyeglasses (said to have

gunpowder on them according to the FBI laboratory report) were inexplicably found 19 feet below Mr. Foster's head in dense foliage.

> *"[A] pair of dark rimmed glasses which were partially covered by foliage and which were located... approximately 15 feet from the decedent's feet."*

Exhibit 30: The **FBI 302 report of the interview with Civilian # 2 [name deleted]**, a civilian park witness who requests anonymity, reflects that information she provided to the U.S. Park Police investigators *had not been correctly recorded* in her U.S. Park Police interview report.

> *"[I]nterviewing [FBI] agents related to [redacted] the observations she provided to U.S. Park Police... she is **positive** that her initial **comments** that a vehicle she observed as a light-colored older model pulling in next to the Honda was [sic] **untrue**."*

Exhibit 31: The **deposition of Cheryl Braun, lead U.S. Park Police Investigator** at Fort Marcy Park, shows that she determined that Mr. Foster's death was *suicide before she even viewed the body.*

> *Q. "Did Lieutenant Gavin mention anything about suicide [when he briefed Rolla and Braun in the Fort Marcy parking lot]?*
>
> *A. I can't recall. I don't — I don't recall if he did or not or if that was what we — it seems to me that we **[the investigators] made that determination [that the death was a suicide] prior to going up and looking at the body**."*

Exhibit 32: On **August 5, 1993 the U.S. Park Police Synopsis / Conclusion, signed by U.S. Park Police Captain Hume,** Assistant Commander of the Criminal Investigation Branch, requested that the death of Mr. Foster be ruled a suicide and that the case be closed before the official death weapon was tested for operability.

*"Based on the aforementioned synopsis of the facts and circumstances presented, the writer requests that the **investigation be "Closed" and that the Manner of Death ruled as "Suicide".***

Exhibit 33: A **Report from Bureau of Alcohol Tobacco and Firearms dated August 17, 1993** to the U.S. Park Police shows that the report concluding that the weapon could fire was not received by the Park Police until eleven days *after* the investigation was officially closed.

"Date of Report: August 17, 1993"

*Exhibit 16: **James H. Jones opines** that the Park Police's suicide ruling was premature.

This was improper procedure. There was not enough information to come to a conclusion as to whether this is a case of suicide or a case of foul play. The ruling of suicide was made before enough evidence had been gathered and/or analyzed e.g., sending the gun to be tested after ruling suicide and closing the investigation.

Conclusion: Of the three investigations,[41] the one performed by the U.S. Park Police was the first and therefore the most important one not to be compromised. But it was. When the U.S. Park Police arrived on the scene, they had no idea what happened to Mr. Foster. This first investigation violated a fundamental tenant of death scene investigation: Treat *every* death as a homicide until foul play can be ruled out.

Numerous other significant irregularities include: (1) A witness characterized statements attributed to her in a Park Police report as "untrue;" (2) photographs were not treated as evidence and were not secured; as a result many of the Polaroid photographs vanished (and there was no internal investigation by the Park Police or Fiske's FBI team); (3) all 35 millimeter photographs are alleged to

[41] Four investigations including Congressman Clinger's eight page "Summary Report," issued August 12, 1994.

be underexposed; (4) a Park Police officer reported that he saw no gun in Mr. Foster's hand (and that the gun hand was palm up -- a photograph of the body site shows the hand with the gun palm down); (5) civilians at the park (including one whose car was running when authorities arrived) were neither identified nor interviewed; (6) the White House was reportedly not notified for about two hours after the Park Police learned that Mr. Foster was a White House employee; (7) a briefcase vanished from the Honda; (8) No car keys were found at the park; (9) the location of Mr. Foster's glasses were inconsistent with suicide at the official death scene; and (10) the case was closed before all the evidence was analyzed and much of the evidence was never analyzed.

When the FBI testified before the Senate that there were no "significant irregularities," this testimony was false, the falsity of which was known to Defendants.

(c) Civilian vehicles in the Fort Marcy lot when authorities arrived

(4) Contrary to the Fiske report, when authorities arrived at Fort Marcy Park, there were more than two cars in the parking lot.

EVIDENCE (Exhibit 34, 35, 36, 37, 38, 39, 40, 41, 42, 43 & 44):

Exhibit 34: The **Fiske Report** describes only two cars as being in the Fort Marcy Park parking lot when authorities first arrived at 6:10/6:11 p.m.

> *"...a white Nissan Stanza parked near the rear of the parking lot, belonged to another woman who drove to the Park with a friend at approximately 5:00 p.m.*[42]*"*

> *"...a grey 1989 Honda Accord with Arkansas license plates,*

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[42] This car belonged to the two individuals identified as Civilian witnesses #1 and Civilian witness #2.

was parked in one of the first spaces on the left near the entrance of the parking lot. The car was registered to Vincent Foster."

Exhibit 35: The **deposition of U.S. Park Police officer Kevin Fornshill**, the first Police Officer to respond to a radio dispatch about a body having been found at Fort Marcy Park, shows that he testified that there were three or four cars in the lot when he arrived.

*"**two to three cars** at the **far end** of the lot... and officially a Honda parked closer to the parkway entrance."*

Exhibit 36: That **deposition of U.S. Park Police officer Kevin Fornshill** reflects that he was questioned directly as to the number of cars in the lot when he arrived. He stated there were more than two cars.

Q. How many cars total?
*A. Well, let's see, if we're going to count the fire engine and my car, the rescue squad, let's say **six, perhaps seven... two of the cars were parked on the other side of the fire engine** and my view was obstructed because of the fire engine, and just the Honda, which was parked closest to me, was a dark colored four door.*

Exhibit 37: The **FBI 302 report with Fairfax County Fire and Rescue Department (hereinafter "Fire & Rescue") James Iacone** also shows that he observed more than two cars in the lot.

*"observed **three or four automobiles** in the lot."*

Exhibit 38: The **Incident Report of paramedic George Gonzalez** noted that he also saw a car which fit the description of the brown Honda seen by the plaintiff.

"two other veh, brwn Honda, AR Tags, and a white Nissan"

Exhibit 39: The **FBI handwritten notes of the interview with Dr. Donald Haut, the Medical Examiner** notes this third car, not the grey Honda or white Nissan.

> *"a car red compact"*

Exhibit 40: The **FBI 302 report of witness interview of paramedic Todd Hall** states that he saw a brown car with the engine running.

> *'noticed an **unoccupied brown car** with the **engine running** parked in the lot."*

Exhibit 41: The **FBI 302 report of the interview with Fire & Rescue Jennifer Wacha** also reflects that she saw the same car.

> ***"in the parking area... the engine was running**... also a **third car** in the lot."*

Exhibit 42: The **FBI 302 report of an interview with paramedic Richard Arthur** states that he too saw the car with its hazard lights flashing.

> *Foster's vehicle is described to have been light colored in either a cream or tan hue... A second car **in the parking lot** was described as either gray or silver... there was **a red car with hazard lights blinking**.*[43]

Exhibit 44: The **deposition of EMS technician Todd Hall** shows an "extra" car in the parking lot with its engine running.

> *Q. Do you remember seeing **an unoccupied car with the engine running** in the parking lot?*

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[43] Exhibit 43: The FBI 302 of Richard Arthur omitted the that the driver of a car in the lot drove away without being identified. The following phrase, which appeared in the **handwritten notes of an FBI interview with Mr. Arthur**, was omitted from the typed version of that interview.

"Red car gone when he left" [at 6:37 p.m.]

A. ***Yes.*** *It was speculation between* ***all of us*** *that it was the car in the lot running.*

Q. *That it was running?*

A. *Well, I did hear it running...*

Q. *But you remember seeing a car there?*

A. *Yes, there was one parked yes. There was two or* ***three cars there****...*

Conclusion: Six of the seven very first officials to arrive at the scene (Fornshill, Wacha, Iacone, Gonzalez, Hall, and Arthur) reported seeing a third car in the Fort Marcy Park parking lot. The Fiske Report ignores this and further states that everyone was interviewed. But the driver of the third car (unoccupied, apparently red or brown, engine running and its hazard lights flashing) is nowhere identified in any of the official reports. The description of this car generally fits the description of the rust-brown Honda seen by Plaintiff and the two civilians before police arrived.[44]

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(5) **The Fiske Report deceptively omitted the fact that Foster's car keys were not found at Fort Marcy Park even after a thorough body search by police.**

EVIDENCE (Exhibits 45, 46, 47, 48 & 49):

Exhibit 45: The **Fiske Report** concealed that Mr. Foster's pants were searched for keys at Fort Marcy Park and *no keys were found* until a second search hours later at the morgue. The Fiske Report simply states:

> *"The* ***keys*** *to the car were located in Foster's pants* ***pocket****."*

Exhibit 46: The **deposition of U.S. Park Police officer John Rolla** unequivocally demonstrates that the keys were not found at Fort Marcy Park.

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[44] The Honda at the park, which is alleged to be the same car used by Mr. Foster and his family, was tested for fingerprints. It had none.

Q. *Did you get any keys?*

A. *I searched his pants pockets. I couldn't find a wallet or nothing in his pants pockets... We searched the car and we were* ***puzzled why we found no keys*** *to the car... As it turned out, Investigator Braun and myself went to the* ***morgue*** *in Fairfax Hospital,* ***after we made a death notification****, to recheck him. At that point Investigator Braun located the* ***keys in his pocket****.*

Exhibit 47: The **U.S. Park Police EVIDENCE/PROPERTY CONTROL** shows that Investigator Rolla would have had to have missed two sets of key rings, both officially found later in Mr. Foster's *right pants pocket* at the morgue. One ring (containing Mr. Foster's personal keys) contained presumably at least four keys and a tab marked "Vince's Keys." Also in his right front pants pocket was a second key ring with Mr. Foster's White House keys with two tabs on it (a plastic tab and a large metal inscribed tab) and four keys (two door keys, a cabinet drawer type key, and an inscribed high security key with Medco-type cuts). These two sets of key rings would have been hard to miss had they actually been in Mr. Foster's pocket.

Exhibit 48: The **FBI 302 Report of interview of William Kennedy**, White House Associate Counsel, reveals that he requested to go to the morgue to confirm the death only after Craig Livingstone, the Chief of White House personnel security, had confirmed Mr. Foster's death for Kennedy.

> ***KENNEDY said*** *he didn't believe the news and told LIVINGSTON [sic]* ***he needed confirmation****. LIVINGSTON [sic]* ***called back to say he had confirmed the death*** *and reported that the death was thought to be a suicide in a park. The body was enroute to a hospital (name not recalled by KENNEDY). KENNEDY said that he* ***(KENNEDY) had to go to the hospital****.*

Exhibit 49: The **Sherburne White House Chronology memo** shows that White House personnel went to the hospital to view Mr. Foster's body while the Park Police were enroute to the Foster home, *before* these officers went to the morgue and retrieved Mr. Foster's keys.

> *"**Kennedy** and someone else **[Livingstone] were on their way to the hospital** to identify the body. He [David Watkins] **also** learned that two people **[USPP Officers Rolla and Braun] were on their way to the Foster home** to notify Mrs. Foster. Watkins wanted to go with them. This was arranged."*

Conclusion: The evidence demonstrates that Mr. Foster's pants pockets were searched for the keys at Fort Marcy Park and found empty. The keys were not found in the pants pocket until hours later at the morgue by police, after Mr. Foster's body had been visited by White House personnel. The keys not found at the park consisted of two separate key rings, one with four keys and a tab inscribed, "Cook's Jeep Sales," and another set of keys with the inscription, "Vince's Keys."[45] These two sets of key rings would be virtually impossible to miss given that Rolla stated he gloved up and probed the pants pocket searching for, inter alia, a piece of paper (suicide note).

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(6) The Fiske Report concealed that Mr. Foster's briefcase vanished from the Honda at Fort Marcy Park.

EVIDENCE (Exhibits 50, 51, 52, 53 & 54):

Exhibit 50: The **FBI 302 Report of an interview with George Gonzalez** reported that he saw a briefcase in the car thought to be Foster's.

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[45] Mr. Foster's personal keys were not inventoried before being turned over to the White House, so investigators do not know (and never bothered to find out) whether these keys included a key to an office or residence where Mr. Foster may have been between 1:00 p.m. and 6:00 p.m. on the day of his death.

*"the Honda contained a necktie, suitcoat, and a **black briefcase** / attache case"*

Exhibit 51: The **FBI 302 Report of an interview with Todd Hall** notes that he saw a briefcase.

*"Also contained in the car was a **briefcase**; Hall believed Foster's tie may have been in the car but he was not sure... Hall noted that the aforementioned vehicle with the suit coat and **briefcase** bore Arkansas tags."*

Exhibit 52: The **deposition of U.S. Park Police officer Kevin Fornshill** indicates that he might have seen a briefcase.

Q. *"Did you **see a briefcase**?*
A. ***Possibly**."*

Exhibit 53: The **FBI 302 report of the interview with Plaintiff** also states he saw a briefcase.

*"He further stated that he observed in this Honda a leather **briefcase** or leather folder on the passenger side seat."*

Conclusion: At least four witnesses saw a briefcase in a Honda with Arkansas license plates.[46] Officially, it was not there.[47]

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[46] The Fiske Report falsified relevant times in the record. Dr. Haut arrived at the scene an hour before the Fiske report states he arrived. The Fiske report tells us Mr. Foster's body was bagged some 700 feet from the Fort Marcy parking lot fifteen minutes after it actually arrived at the hospital. The times in the Fiske report are substantially pushed back, perhaps to give credence to White House claims that it did not learn of the death until 8:30 p.m.

[47] Exhibit 54: The **deposition of U.S. Park Police investigator Braun** shows that she volunteered that she was, for some reason, looking for the briefcase.

Q. *"Did you notice any piece of paper that might have been related to Mr. Foster's work or Mr. Foster's job?*
A. *No. No. There was nothing of that nature in the vehicle.*
Q. *Did you—*

And officially, the torn "suicide note" was found in Mr. Foster's briefcase six days after the death.

(d) The gun

(7) **The FBI knew that Mrs. Foster could not identify the black Colt Army Special .38 revolver found at Fort Marcy Park, so the agents showed her a silver gun and then falsely reported that she identified the gun found in Mr. Foster's hand at Fort Marcy Park.**

EVIDENCE (Exhibits 55, 56, 57, 58, 59, 60 & 61):

Exhibit 55: The **U.S. Park Police handwritten interview notes of an interview with Mrs. Foster**, taken nine days after Mr. Foster's death, demonstrates that when she was shown a photograph of the gun, Mrs. Foster could not identify it because the only Foster family gun with which she was familiar was silver.

> *"**Not the gun she thought it must be, silver, six gun,** large barrel."*

Exhibit 56: A **U.S. Park Police Report of that interview with Mrs. Foster** also reflects that she could not identify the gun found in Mr. Foster's hand when interviewed nine days after the death on July 29, 1993.

> *"She was **presented with a photograph of the weapon** found with Mr. Foster's body but **was unable to identify it.**"*

Exhibit 57: The **deposition of U.S. Park Police officer John Rolla** shows that the gun found in Fort Marcy Park in Mr. Foster's hand was black.

> ***"a black-colored revolver**, .38 revolver."*

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*A. That's what I was looking for — I was **looking for a briefcase** to be in the vehicle. **And there wasn't."***

Exhibit 58: The **photograph of the gun in the United States Senate Hearings 103-889, Vol II, as well as the ABC News photograph** shows that it is totally black or dark.

Exhibit 59: The **FBI 302 report of the interview with Mrs. Foster** shows that she did identify a *silver* gun the FBI showed her on May 9, 1994.

> ***LISA FOSTER** then examined a revolver which had been brought to the interview by the interviewing agents. FOSTER **examined the revolver, which had also been found at Fort Marcy Park** on July 20, 1993, and stated that **she believed it may be a gun which she formerly saw in her residence** in Little Rock, Arkansas.*
>
> ***...Lisa Foster believes** that she may have seen **the handgun** which she **examined previously during the interview** at her residence in Washington. Lisa Foster recalls that as she was packing her belongings in Little Rock in preparation for coming to Washington, D.C., she found a handgun inside a travel trunk which had been packed by Foster prior to his departure for Washington. Specifically, as Lisa Foster **was** packing in Little Rock, she came across **a silver colored gun**, which she then packed in with her other property...*
>
> ***...Lisa Foster believes that the gun found at Fort Marcy Park may be the silver gun** which she brought up with her other belongings when she permanently moved to Washington.*

Exhibit 60: The **Fiske Report** perpetuated the deception, this time omitting the color of the gun Mrs. Foster identified.

> *"Lisa Foster stated that the gun looked similar to one that she had seen in their home in Arkansas and that she had brought to Washington."*

Exhibit 61: The **United States Senate Report 103-433**

Vol. 1 reflects that the FBI misled the Senate Banking Committee into believing the gun the agents showed Mrs. Foster was the one found at Fort Marcy Park.

> *"Mrs. Foster examined the revolver recovered from Mr. Foster's hand... **a silver colored handgun...**"*

Conclusion: The FBI knew from copies of the Park Police case file turned over to it that when the U.S. Park Police showed Mrs. Foster a photograph of the black official death gun, she could not identify it because the gun she knew of was silver. So the FBI showed her a silver gun and reported she identified the gun found in Mr. Foster's hand at Fort Marcy Park. According to the FBI's handwritten notes, those attending the interview when Mrs. Foster was apparently shown a silver-colored gun (obviously not the weapon officially found in Fort Marcy Park in Mr. Foster's hand) included at least two FBI agents assigned to the Fiske investigation. Clearly, the Fiske Report's conclusion of suicide would have been undercut by a conclusion that the official death weapon was unknown to the family and was buttressed by the "identification" (however misleading) provided by the FBI interview of Mrs. Foster.

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(8) The Fiske report concealed that an automatic pistol was found in Mr. Foster's hand before the revolver was placed in his hand.

EVIDENCE (Exhibits 62, 63, 64 & 65):

Exhibit 62: The **FBI handwritten notes of the interview with EMS worker Richard Arthur,** one of the first paramedics on the scene, shows that he is an army veteran. Mr. Arthur was absolutely certain the gun he saw in Mr. Foster's hand was an automatic (a magazine fed handgun), not a revolver (cartridges contained in a revolving cylinder).

> *"Barrel end tucked under right leg. **100% sure automatic weapon** (was in Army look at [gun] magazines Knows the diff between automatic & revolver) Appeared like 45*

automatic."

Exhibit 63: In **Richard Arthur's deposition**, he reiterated that he saw an automatic pistol and not a revolver.

> *"I saw a square handle and like a square barrel... it looked like an automatic style. I don't know if it was a .45, a 9 millimeter... I just know it seemed to be* ***an automatic and not a revolver, like what was reported.***"

Exhibit 64: The **drawing by Richard Arthur of the gun he saw** when he was deposed demonstrates he knew the type of gun he saw.

Conclusion: The observation that a semi-automatic pistol was in Foster's hand was omitted in the Fiske Report.[48]

(e) Other forensic evidence

(9) The FBI ignored forensic evidence found on Mr. Foster's clothing.

EVIDENCE (Exhibit 66):

Exhibit 66: The FBI unjustifiably ignored forensic evidence, contrary to **FBI agent Monroe's testimony before the Senate Banking Committee**.

> *Senator Bennett: ...Has the FBI investigation* ***determined the identify of those blond Caucasian head hairs?***
>
> *Mr. Monroe: No, we have not, sir... Basically for the*

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[48] Exhibit 65: In addition, the state of the official death weapon was that of a handgun that had been wiped clean of fingerprints. The **Fiske Report** suggests that there were no fingerprints on the gun (and two brass cartridges) fired by Mr. Foster (using both hands and officially found gripped in his right hand) by implying that heat destroyed them:

> *"Latent* ***prints*** *can be* ***destroyed by*** *exposure to certain elements, such as* ***heat.***"

following reasons, sir. There were three blond hairs found on articles of clothing, as you've said. Our objective... was to find out how Mr. Foster died, why did he die... It was our professional judgment that trying to determine that hair would not lead us or advance us in this objective... ***the source of this hair could have been boundless...***"

Senator Bennett: The FBI identified carpet-type fibers of various colors... Does the FBI have any idea where that came from? ***Was any attempt made to match that with any carpet in his home, car, or office?***

Mr. Monroe: ***No****, sir, and for the same reasons I provided in response to your first question relative to the hairs... We had* ***no way to match those particular carpets up****, outside the fact that they most likely came from his residence or from his office...*

Conclusion: Mr. Monroe's statement that the FBI "had no way to match those particular carpets" (home, car and office) is simply not true.[49] The FBI lab is equipped to carry out such analyses, has done so many times, and solved the Atlanta child murder case by carpet fiber analysis. The FBI ignored forensic evidence found on Mr. Foster's clothing.

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(10) The wound to Mr. Foster's head, as well as the amount of blood at the scene, is not consistent with his having died at the scene by a point blank shot into the mouth from the official death weapon.

EVIDENCE (Exhibits 67, 68, 69, 70, 71, 72 & 73):

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[49] Six different colors of carpet fibers were found on virtually all of Mr. Foster's clothing. These six different fibers were found on the clothing which was bagged at the autopsy on July 21, and all six colors of carpet fibers were also found on his jacket and tie, retrieved from his car and bagged on July 20.

Exhibit 67: The **Fiske Report** states that those present observed a large pool of blood and a large exit wound.

> *"...Foster's body was rolled over and **those present observed a large pool of blood located on the ground where Foster's head had been. Haut observed a large exit wound** in the back of the skull."*

Exhibit 68: The **FBI 302 Report of the interview with Dr. Donald Haut** reports that Dr. Haut opined that the wound[50] was not consistent with the .38 revolver (which fired high velocity ammunition) officially found in Mr. Foster's hand.

> *"[H]e did not see blood on FOSTER'S face... Haut believed that the wound was consistent with a **low velocity weapon**. Haut recalled a separate case in which a .25 caliber rifle caused a much more devastating wound to the victim."*

Exhibit 69: The **deposition of U.S. Park Police officer John Rolla** shows that he found it surprising that the revolver found in Mr. Foster's hand was responsible for the wound.

> *"I still can't believe the hole – it's **a small hole**... I probed his head and there was **no big hole** there. There was **no big blowout**. There weren't brains running all over the place... I initially **thought the bullet might still be in his head**."*

Exhibit 70: The **deposition of Richard Arthur** indicates there was no exit wound.

> *"[A] .38 would have an exit wound. **I've seen .38 gunshot wounds before to the head**, and they had exit wounds before. I don't know, **maybe** out of some weird coincidence or*

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50 The **FBI 302 report of the interview with Dr. Haut** contains no reference to an exit wound identified as such. Dr. Haut's medical report, although prepared in accordance with standard procedure, is absent from the publicly-available record.

*something **this one didn't**, but from what I saw in past things, .38s usually have an exit wound."*

Exhibit 71: According to the **deposition of paramedic Richard Arthur**, Cory Ashford did not see an exit wound.

*"I talked to Corey [sic] who put the body into the body bag. He classified it as a homicide... I asked him if there was an **exit wound, and he said no**. He said the head was intact when he picked it up. So that's just **another thing that led me to believe that it could have been a homicide**."*

Exhibit 72: The **FBI 302 Report of the interview with paramedic Cory Ashford** states that he did not recall seeing any blood when he placed Foster's body into the body bag.

*"Ashford lifted Foster from behind the shoulder, cradling the victim's head... Ashford did **not recall seeing any blood** while placing Foster in the bag."*

*Exhibit 73: The **written opinion of Vincent J. Scalice**, a highly respected forensic consultant and criminalist, after conducting an investigation into the circumstances of Mr. Foster's death, issued a detailed report of the results of his investigation. Regarding the lack of blood, Mr. Scalice opined:

*The **lack of blood** on the front of the body is **inconsistent with death by intra-oral gunshot**, which raises the **likelihood** that Foster's heart had already cessated and that **death** would have been **caused by other means**. Dr. Donald Haut, the Medical Examiner present at the scene when the body was rolled over, said there was little blood behind the body on the ground. This is consistent with the small amount of blood that had emanated from the entrance wound. Haut said that blood had matted or congealed on the back of the head. This is an **indication that the exit wound may have been covered** if the body was moved. Had Foster fired the weapon while in the sitting position and the bullet followed the trajectory*

described in the autopsy, exiting from the back of the top of the head, ***blood spattered brain tissue and other matter should have been visible*** *above the head, on the surrounding ground or vegetation. No witnesses identified such matter as described and the lead police investigator saw none.*[51]

The ***inconsistent blood tracks*** *and stain on Foster's right cheek, as mentioned in the F.B.I. report, cannot simply be explained by the fact that an emergency worker may have touched his head, for example, while checking the carotid artery. This* ***further supports the theory that the body may have been transported.***[52]

Conclusion: Dr. Haut's statement to the FBI was that the wound appeared to be consistent with a low velocity weapon. The gun found in Mr. Foster's hand fired high velocity ammunition. The Fiske Report ignores this, omits evidence of witnesses that did not see a large exit wound, omits evidence of witnesses who did not see any exit wound at all, and omits evidence that there was a suspicious lack of blood at the scene. These factors strongly indicate that the official body site was not the actual death scene.

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(11) The FBI concealed that a US Park police officer saw a branch lying across Mr. Foster's body.

EVIDENCE (Exhibit 74):

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51 Paramedic Roger Harrison's FBI report of his interview (at page 1,377 of the Senate Hearings volumes) further indicates that there was a small amount of blood at the scene: *"If there was a* ***quantity of blood present on Foster's body, a hazardous material report*** *would have been filed noting the condition and amount of blood."*

52 Fiske reports that two paramedics, Cory Ashford and Richard Arthur, questioned the suicide conclusion. But so did paramedics Todd Hall and George Gonzalez.

Exhibit 74: The **FBI 302 handwritten notes of an interview with John Rolla** clearly shows that he reported seeing a branch lying across Mr. Foster's body.

> *"-**branch across the body** in his opinion was severed by shot with branch falling over him"*

Conclusion: Evidence of a branch lying across the body is consistent with tampering of the body scene. The FBI concealed this evidence.

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(12) The FBI ignored that the absence of soil on Mr. Foster's shoes is inconsistent with his having walked some 700 feet on dirt paths to the spot where he was officially found.

EVIDENCE: (Exhibits 75, 76 & 73):

Exhibit 75: The body was lying on a dirt path, as is evident from the **FBI-302 Report of an interview with Lieutenant Gavin**, the highest ranking U.S. Park Police official at Fort Marcy Park.

> *"He stated there was a **path** directly in front of the cannon... **the body was lying** on the down side of the berm **in the middle of the path**."*

Exhibit 76: The **FBI lab report** shows that there was no coherent soil on Mr. Foster's shoes.

> *"did not contain coherent soil"*

*Exhibit 73: The **written opinion of Vincent J. Scalice,** also opined regarding the lack of coherent soil on Mr. Foster's shoes.

> *According to the Fiske Report, Foster's shoes had not one trace of coherent soil on them... Although the heavy summer foliage may have covered much of the ground soil, other areas would have been traversed with*

exposed soil. For example, a laboratory test conducted with one (1) pair of shoes (15017, worn by model) and walked simply several paces in the vicinity of the second cannon, ***revealed "significant quantities of soil*** *in combination with vermiculite (mica) on both heels." ...These facts would be* ***highly consistent with the fact that Foster did not walk to the spot where he was found****, but was more likely transported to this location by other means.*

Conclusion: No soil being found on Mr. Foster's shoes is inconsistent with the theory that he walked over 700 feet from his car to the body site *path.*

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(13) Fiske ignored that it is inconceivable for the glasses to have been thrown or bounced through foliage to the location where they were found.

EVIDENCE (Exhibits 73, 77, 78, 79, 80, 81, 82 & 83):

Exhibit 77: The **Fiske Report**'s explanation is:

"...ball ***powder on the eyeglasses*** *recovered... is physically and chemically* ***similar*** *to the* ***gunpowder*** *found in the cartridge case removed from* ***Foster's*** *gun."*

"The FBI lab further found one piece of ball powder on the eyeglasses recovered from the bottom of the berm, approximately ***thirteen feet***[53] *below where Foster was found... One obvious scenario is that* ***the glasses bounced down the hill."***

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53 The FBI took two feet off the 15 foot distance reported by the Park Police. Exhibit 78, the **FBI 302 Report of an interview with U.S. Park Police Officer John Rolla**, states the eyeglasses were found covered with foliage *fifteen* feet from Mr. Foster's feet (which is 21 feet from his head -- he was 6'4").

> *"eyeglasses which were partially covered with foliage... were located... approximately* ***15 feet from the decedent's feet.***"

Exhibit 79: **The FBI Lab Report**, dated 6/13/94, took a "no determination" position regarding the whereabouts of the eyeglasses at the time of death.

> ***"No determination can be made as to the position of the Q3 glasses at the time of death."***

*Exhibit 73: **Mr. Scalice's written opinion addresses the location of Mr. Foster's eyeglasses**. The glasses were found in a densely foliated area at least 13 feet from his feet and 19 feet from his head, with gunpowder on them. Mr. Scalice opines that the Fiske report's conclusion that they bounced there is "inconceivable."

> *Foster's eyeglasses were reported to have been recovered approximately 13 feet below his body on the berm. The Fiske report notes that since the **gunpowder** was found **on the glasses** it meant that **they must have been thrown from his head or shirt pocket after the gunshot.** It is **inconceivable** for the glasses to have been **thrown or bounced through foliage to the location where they were found.** This would seem more likely an indication that the crime scene was tampered with.*

Exhibit 80: The **FBI 302 report of the interview with Senior investigator Cheryl Braun** notes the dense foliage in the area where the body was found.

> *"[T]here was thick **foliage** on both sides of the body."*

Exhibit 81: The **FBI Lab report's finding of gunpowder on Mr. Foster's eyeglasses** mandates that they were near a gun which was fired.[54]

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[54] The **Fiske Report** relies on the FBI lab in reporting that gunpowder was also found on Mr. Foster's shirt. (Exhibit 82):

> ***"residues** found on Foster's **shirt** is **consistent with** the **blast** from the cylinder of Foster's gun..."*

*"One piece of **ball smokeless powder was removed from the Q3 glasses** in the laboratory."*

Conclusion: Mr. Fiske's explanation that the glasses flew off Mr. Foster's head or out of his pocket and landed (or bounced in dense foliage) over fifteen feet away *uprange* (in the opposite direction from the bullet trajectory) defies logic.[55]

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(14) The FBI Laboratory concealed that the 35 millimeter roll of film taken apparently produced usable photographs, and the Fiske report concealed that many of the Polaroid photographs mysteriously vanished.

EVIDENCE (Exhibits 84, 85, 86, 87, 88, 89 & 90):

Exhibit 84: When defendant **FBI agent Monroe testified before the U.S. Senate Banking Committee**, he failed to report that many crime scene photographs vanished and concealed that the FBI lab successfully enhanced the 35 millimeter photographs taken at the scene.

"In addition, the FBI lab performed extensive analysis of the Park Police photographs taken of Mr. Foster's body in Fort Marcy Park..."

Exhibit 85: The **FBI Receipt for Property Received** reveals that only 13 Polaroids of the body site (and five of the Honda) survived -- eight taken by US Park Police Officer Rolla and five taken by US Park Police Sergeant Bob Edwards. Many of Officer Rolla's Polaroids vanished and all of Officer Ferstl's Polaroids vanished.

Exhibit 86: The **deposition of U.S. Park Police officer John Rolla** reveals that he also took Polaroids.

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[55] n the **photocopy of the eyeglasses in record** (Exhibit 83), one of the stems appears broken from the frame. There is no indication in the record how the stem may have been broken from the frame.

A. *I think I had more than one packet [of Polaroid film]. I don't think I took more than one. There's only 10 in a pack.* ***I may have reloaded because I know I took some on the backside.*** *I* ***don't have those photos,*** *I put them in a jacket, God knows how many people looked through those,* ***and I don't know what happened.***

* * *

A. ***I don't remember seeing backside photos, and I know I would have taken,*** *I had at least one from a way from him, after rolling him, and probably at least two more, or at least one more.* ***I would say there has to be two,*** *because I would have taken – since a lot of times investigators won't take too many Polaroids, they will leave it to me, and I wanted to have photographs, I* ***may have taken a closeup of the back of the head,*** *there may have been one, but I don't remember.*

* * *

Q. *What was the* ***quality*** *of the pictures?*
A. *I think the Polaroids* ***were fine."***

Exhibit 87: The **FBI 302 Report of an interview with U.S. Park Police officer Franz Joseph Ferstl** reveals that he took approximately seven Polaroid photographs. They vanished, as is evident from the fact that they are not listed in the inventory of photographs (Exhibit 85).

"FERSTL advised that he also took several polaroid [sic] photos of the crime scene... FERSTL stated that to the best of his recollection, ***he took approximately seven photos...***"

Exhibit 88: The **FBI Laboratory Report** falsely states that the 35 millimeter roll of film was underexposed and of limited value.

"Due to the negatives [35 mm] being underexposed during the photographic process, limited detail could be extracted

from each of the selected frames."

Exhibit 89: **U.S. Park Police evidence technician Peter Simonello's deposition** demonstrates that the FBI lab enhanced the 35 millimeter photographs so they did not appear underexposed. According to the photographer who took the entire roll of 35 millimeter film (and took no Polaroids), the photographs "looked good."

> *Q. Did you see anything in their [FBI] findings that contradicted anything in your report?*
>
> *A. I don't believe so.*
>
> *Q. Have you subsequently become aware of* ***any information that would contradict anything in your report****?*
>
> *A. The only thing I read in there that I was wondering about is* ***they said my 35 millimeter roll of film was overexposed [sic] and they weren't able to get any prints from it.*** *But I recall that I was in the office there when they took a statement from me that day. I guess that was that date in May, and they showed me some 8-by-10 color photographs, and* ***they indicated they were able to, in fact, enhance the photographs which I took****, and I saw several of those 8-by-10s and I commented on what a good job they did because* ***they looked good to me. They didn't look underexposed. They were able to enhance them and in the report they indicate they were not able to get anything from them.***

Conclusion: All 35 millimeter photographs of the alleged death scene were, according to the FBI, underexposed. But the photographer testified that the FBI told him the lab was "able to, in fact, enhance the photographs," and according to that photographer, these photographs "looked good," even though the FBI lab says otherwise. The Fiske Report relies heavily on photographic evidence,[56] but deceptively omits that *all* of the Polaroid

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[56] Exhibit 90: That the **Fiske Report** relied heavily on photographs is evident:

photographs taken by Officer Ferstl *vanished,* and omits that *all* of the "back side" Polaroid photographs taken by Officer Rolla *vanished*, so that only 13 photographs of the alleged death scene officially exist.

(f) Depression

(15) The Fiske Report states that Mr. Foster was taking medication for depression. He was not.

EVIDENCE (Exhibit 91):

Exhibit 91: The **Fiske Report** alleges that Mr. Foster was taking an antidepressant.

> *"The Pathologist Report notes that information that Foster took an anti-depressant prior to his death is corroborated by the finding of a trace amount of trazadone (sic), an anti-depressant, identified in Foster's blood."*

> *"[T]his **office examined... photographic** evidence, including... **photographs** of Foster's body taken by the Park Police in Fort Marcy Park... Among the tests conducted by the FBI Lab were... an analysis of **photographs** taken by the Park Police..."*
>
> ***"Polaroid and 35 mm photographs were taken** of the body and the surrounding area... The **Polaroid photographs**, however, clearly depict the condition of Foster's body shortly after the arrival of the Park Police. The **photographs** show blood stains... The **photographs** of his face show two lines of blood... The **photographs** also show..."*
>
> *"In **March 1994, this Office obtained** from the Park Police... all available physical evidence collected in connection with the investigation of Foster's death, and provided it to the FBI Lab for analysis. This evidence included... **photographs** taken at the scene of the death..."*
>
> *"In addition to the foliage, **photographs** taken at the scene **show**..."*

Conclusion: Trazadone in the 50 milligram dosage allegedly prescribed by Dr. Watkins (see Exhibit 93 *infra*) is consistent with treatment for depression, particularly for a man of Mr. Foster's weight.

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(16) The Fiske Report concealed that Foster's doctor opined that Mr. Foster was not depressed.

E V I D E N C E (Exhibits 92 & 93):

Exhibit 92: The **Fiske Report** misstated that Mr. Foster told his doctor that he was depressed.

> *"In late 1992, he **told his physician** in Little Rock, Dr. Larry Watkins, that he was **feeling depressed** and anxious."*

Exhibit 93: The **FBI 302 from the interview with Dr. Watkins** shows that in late 1992 Mr. Foster had a period of stress, not depression.

> *...in the later part of November and December 1992, after the election, FOSTER went through a period of increased **stress** which he discussed with WATKINS...*
>
> * * *
>
> *WATKINS prescribed Desyrel, 50 milligram tablets, which he knew to be the generic drug Trazodone... because it is helpful for insomnia... thought if he [Mr. Foster] got some rest that he would feel a lot better... He [Watkins] did **not think that FOSTER was significantly depressed** nor had Foster given the impression that he was 'in crisis'...*

Conclusion: Mr. Foster did not tell his doctor he was feeling depressed in late 1992. Dr. Watkins stated that he gave Mr. Foster a prescription for insomnia, *not* depression.[57]

(17) The FBI falsely reported that those close to Mr. Foster said he was deeply depressed.

EVIDENCE (Exhibits 94, 95, 96, 97, 98, 99, 100 & 101):

Exhibit 94: Defendant **FBI Agent Monroe testified before the Senate Banking Committee** that those close to Mr. Foster reported that he was deeply depressed and distracted.

> *"Interviews with Mrs. Foster and other family members revealed that **Mr. Foster was deeply depressed...** friends stated that he **appeared distracted** and worried most of the time and he became quite subdued."*

Exhibit 95: The **FBI 302 report of the interview with Susan Thomases** demonstrates that she noticed no change in Mr. Foster's demeanor or physical appearance and that she was so shocked by his death that she could not even speculate in hindsight as to why he may have taken his own life.

> *"She [Susan Thomases] **noted no change in his demeanor or physical appearance** but was aware that he was working very hard and was under considerable pressure. His **death***

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57 Another suspect statement regarding Mr. Foster's alleged depression appears on page 22 of the Fiske Report. Allegedly, telephone records reflect that in the early afternoon of Friday, July 16, someone made two calls to one of the psychiatrists recommended by his sister from the *telephone in his office* and charged the calls to his home telephone. Fiske further claims that we know "*Each call lasted one minute or less [because] **calls of less than one minute are reflected on a telephone bill** as one minute in length. It is possible that Foster reached the answering machine and did not leave a message...*" The referenced telephone bill is not among the records in the case. Assuming Foster charged that local call to his home telephone, the number of minutes would not appear the telephone bill as it is a local call, not a toll call.

came as a complete shock to her and she can offer no reason or speculation as to why he may have taken his life."

Exhibit 96: According to the **FBI 302 report of the interview with Marsha Scott**, another White House coworker who knew him well, Mr. Foster showed no signs of distress the day before he died.

> *"said that during the meeting on July 19 [the day before his death] he did* ***not appear distracted or otherwise distressed.***"

Exhibit 97: The **FBI handwritten notes of an interview with Linda Tripp**, who worked with Foster daily in the counsel's office, shows that she did not notice anything unusual.

> *"Weight loss + 'down', didn't notice anything."*

Exhibit 98: The **FBI 302 report of that interview with Linda Tripp** similarly stated that noticed nothing unusual even on the day he died, which she thought was odd in light of his alleged actions just hours later.

> *"He sat on his couch eating and reading the newspaper... [and eating a] hamburger. Which struck Tripp odd in retrospect. She could't understand why he would do that if he was planning to commit suicide...* ***there was nothing unusual about his demeanor and he did not seem distressed.***"

Exhibit 99: **U.S. Park Police Officer John Rolla testified on deposition** that on the night of Mr. Foster's death, Sheila Anthony, Foster's sister, told him that she did not notice any signs of depression.

> *"I [U.S. Park Police Officer Rolla] spoke with her [Sheila Foster Anthony], Cheryl [U.S. Park Police officer Braun] spoke with her, she was very cordial. I remember asking her, did you see any of this coming, and she stated no...* ***I mentioned depression****, did you* ***see this coming****, were there*

***any signs**, has he been taking any medication? **All negative answers.**"*

Conclusion: FBI agent Monroe falsely testified that those close to Mr. Foster said he was deeply depressed.[58]

(18) The FBI knew Mr. Foster had gained weight, but reported he lost weight.

EVIDENCE (Exhibits 102, 103, 104, 105, 106, 107 & 108):

Exhibit 102: Defendant **FBI agent Monroe's testimony before the Senate Banking Committee** testified that Foster lost considerable weight. This is false.

***"those close to him told us** that in those final weeks he **[Foster] had lost considerable weight.**"[59]*

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[58] Moreover, the record does not support the conclusion that Mr. Foster was depressed or fighting depression. Note how the word "prescription" was changed to "depression" in the final typed version of Mrs. Foster's FBI interview.

Exhibit 100: The **FBI handwritten notes of an interview with Mrs. Foster** reflects that Mr. Foster's doctor spoke with Mrs. Foster after Mr. Foster's death. During that conversation between Mrs. Foster and Dr. Watkins, Mrs. Foster learned that Mr. Foster had earlier told Dr. Watkins that he was fighting taking prescription medication.

Q. "What was the substance of your call to Dr. Watkins subsequent to finding out about your husband's death?
*A. VF called Dr. said he thought he was **fighting prescription**... LF didn't hear the conversation."*

Exhibit 101: The final typed **FBI 302 report of that interview with Mrs. Foster** substituted "fighting depression" for "fighting prescription."

"In speaking with DR. WATKINS, LISA FOSTER learned that FOSTER had called DR. WATKINS and told him he thought he was fighting depression."

[59] The **Fiske Report** similarly contradicts the evidence by also reporting that Mr. Foster lost weight. Exhibit 103:

*"Although no one noticed a loss of appetite, **it was obvious to many that***

Exhibit 104: The **FBI 302 Report from the interview with Dr. Watkins** states Foster's weight at the beginning of 1993.

> *"His [Foster's] weight on **December 31, 1992** was **194 pounds** and WATKINS had made a note that he was on a diet and exercising."*

Exhibit 105: A comparison of Mr. Foster's weight at the beginning of 1993 with the weight in his July 21 **Autopsy Report** shows that Mr. Foster gained three pounds in the first six months of 1993.

> *"Weight 197"*

Exhibit 106: The **FBI 302 report of the interview with Mrs. Foster** further indicates that Mr. Foster lost no weight after his arrival in Washington.

> *"She [Mrs. Foster] believed that most of the **weight** which FOSTER **lost** by that time [when she arrived in Washington, June 5, 1993] had been lost **prior to his arrival in Washington**, D.C. [January 20, 1993]."*

Exhibit 107: According to the **FBI 302 report of the interview with Marsha Scott**, she noticed no weight loss.

> *"didn't notice his weight loss"*

Exhibit 108: The **FBI 302 report of the interview with associate White House Counsel Beth Nolan**, who also worked with Mr. Foster, states that she told the FBI that she did not notice any weight loss.

> *"...some joking around that had occurred during the previous Friday [before his death] staff meeting. She saw him Monday, July 19... he did **not seem distracted** and handled the exchange normally... did **not recall***

> ***he had lost weight."***

***anybody ever remarking about Foster holding up or not holding up**, and she did **not** herself **notice** that there had been **any weight loss**."*

Conclusion: The FBI knew that Mr. Foster had not lost weight, but reported that he did.[60]

(g) Other evidence of an FBI cover-up

(19) Mr. Fiske stated that no autopsy x-rays were taken without investigating significant evidence that x-rays were in fact taken.

EVIDENCE (Exhibits 109, 110, 111 & 112):

Exhibit 109: The **Fiske Report** states that at the time of the autopsy, no x-rays were taken because the x-ray machine was broken.

*"The office **X-ray machine was inoperable** at the time of Foster's autopsy, and as a result no X-rays were taken."*

Exhibit 110: However, the **U.S. Police Park Police Criminal Incident Report** reveals that Dr. Beyer noted the results of the x-rays to US Park Police Detective Morrisette.

*"Dr. Byer [sic] stated that **X-rays indicated** that there was no evidence of bullet fragments in the head."*

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[60] There are two witnesses who apparently reported to the FBI that Mr. Foster did lose weight, in spite of all the evidence to the contrary. William Kennedy's FBI 302 report states that *"Foster had lost weight..."* The other statement that Mr. Foster lost weight is in the FBI 302 report of Sheila Anthony: *"Foster began to lose weight during the last six weeks prior to his death and weighed much less than he had weighed in January 1993."* There is no evidence that these contradictory statements were investigated by the FBI.

Exhibit 111: The following appears on the bottom of the gunshot wound chart of the **Autopsy Report,** indicating that x-rays were taken.

X-rays made: Yes_x_ No__ .

*Exhibit 112: Contrary to the assertion in the Fiske Report, the **Affidavit of Reed Irvine** indicated that the x-ray machine was only one month old and completely operable at the time of the autopsy.

> *"I succeeded in locating the **technician** who was responsible for installing and servicing this machine, Mr. Jesse Poor... Mr. Poor **denied that there had been any trouble with the machine**, which he had installed in June 1993. He checked his records and reported that the **machine was installed on June 15, 1993** and that **the first service call was on Oct. 29, 1993 to make an adjustment** to make the pictures darker.*

Conclusion: The facts are: (1) The report of autopsy indicates that X-rays were made; (2) an autopsy witness[61] stated in an official report that the examining doctor mentioned that the X-rays showed there were no bullet fragments in the head; and (3) there was no service call made to repair the X-ray machine from the time it was purchased a month before the autopsy until three months after the autopsy.

The facts strongly indicate that x-rays were taken, and the FBI failed to investigate this.

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(20) The FBI lab reported that the "suicide note" was written by Mr. Foster, but it was forged.

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[61] Four U.S. Park Police personnel were sent to the autopsy. No reports from any of the other three Park Police officer witnesses to the autopsy are in the public record. There is a reference in the record to the autopsy being videotaped, but there is no record of any such videotape being provided to Mr. Fiske's panel of pathologists.

EVIDENCE (Exhibits 113, 114, 115, 116, 117 & 118):

Exhibit 113: The **FBI Lab's handwriting analysis,** based upon a comparison with a photocopied exemplar and a series of checks (an inadequate basis for comparison to the questioned document), failed to particularize *any* handwriting features upon which it relied. That FBI lab report conclusion of authenticity is simply wrong. The note is a forgery. The *entire* conclusion of the FBI lab report is reprinted below.

> *It was determined that the handwriting on the previously submitted note designated Q29 in Laboratory report dated May 9, 1994 (Lab #40324038 S/D QV ZG WK UD AL QW ZT VY ZZ and AR) was written by VINCENT FOSTER, whose known writings are designated K4 (previously submitted and assigned Lab #40525017 S/D QV ZG UD and VY), K5 (previously submitted and assigned Lab #40602045 S/D QV UD) and K6 (assigned Lab #40617025 D UD).*

*Exhibit 114: Attached is the **written opinion of Reginald E. Alton**, who is an Oxford University Emeritus Fellow and lecturer on detection of forgery, and is a world-recognized expert on handwriting examination and manuscript authentication and detection of forgery with 30 years experience in the field of forensic document examination. He has ruled on such noteworthy figures as C.S. Lewis, Oscar Wilde, Donne, Shelley, and Christina Rosetti. The torn suicide note, in R.E. Alton's opinion, is a forgery.[62]

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[62] By letter dated May 8, 1997, Mr. Alton wrote: "You will perceive that my report says nothing about the alleged circumstances of the discovery of the alleged suicide note... If a document (a) is likely to be valuable to someone; (b) turns up in surprising circumstances; and (c) has been distressed or damaged (e.g. torn or crumpled) there is a prima facie case to suspect the authenticity of the document. But... there is enough visible evidence... to demonstrate that Q1 is a forgery... without our placing any weight on the circumstantial evidence. Foster's briefcase is supposed to have been searched after nine days (long enough delay in all conscience) and declared empty, searched again a few days later and found to contain the 28 pieces of torn note. The value to anyone wanting to show that Foster was under stress is obvious..."

*"In my opinion... Q 1 [questioned document - torn note] is a **forgery** related to K 1 to K 12... [exemplars] Foster seems to have been a natural 'swagger'... The writer of Q 1 is aware of this habit but he fails to match Foster's usage or elegance... Even more revealing is... the word benefit, Q 1 (1.8 and 1.10) as compared... Foster is a habitual writer of counter-clockwise loops or circles... In Q 1 the loops in this ligature either do not exist or are a mere thickening of the ascender of h. The writer of Q 1 is generally uneasy about joining one letter to the next... **This sort of failure is characteristic of forgeries...** In contrast **the hand of Q 1... imitates letters and words from the K group it fails to understand how they are made.***

*Exhibit 115: The **written opinion of Vincent J. Scalice,** Certified Questioned Document examiner with 22 years of experience in the field of forensic document examination, posits that the use by the FBI lab of a single exemplar and checks is "not consistent with standard forensic examination." He also concludes that the torn alleged suicide note "appears to be... an unsuccessful attempt to produce a credible forgery."

5. *The **use of a single document and a series of checks** alleged to have been written by Vincent Foster by the FBI's Questioned Document section is **not consistent with standard forensic examination**.*

* * *

*...Q-1 appears to be a **forgery**...*

Exhibit 116: The **U.S Capitol Police Identification Section Report** was prepared by Sergeant Lockhart at the request of the U.S. Park Police. His conclusion, like the FBI's, failed to identify any

characteristics used to reach its final conclusion. After a one hour[63] examination, Sergeant Lockhart concluded:

> *Both the Known and Questioned Documents were completed by the same author/writer and that writer/author is known as Vincent W. Foster.*

*Exhibit 118: The sworn **Affidavit of Mr. Reed Irvine** relates that in August of 1995, Sergeant Lockhart was given a group of letter-characters taken from (1) the Foster exemplar Lockhart earlier had used, added to (2) letter-characters from the torn "suicide note." The source of these letter-characters was unknown to Sergeant Lockhart. He separated them into two groups, and concluded one was an unsuccessful forgery of the handwriting of the other. He thus repudiated his earlier conclusion and opined that the note was forged.

> *[T]he first opinion that the torn-up note was written by Mr. Foster was given by Sgt. Larry Lockhart... [who had] retired and was available to do handwriting analysis. I phoned Sgt. Lockhart and made an appointment to... get his opinion on the authenticity of a document.*
>
> *I had taken the words that were common to both the known sample of Foster's handwriting (the exemplar) and the torn-up note and enlarged them on a copying machine. I enlarged them at random on a sheet of paper... I asked him [Sergeant Lockhart] if in his opinion the words arranged on the sheet had been written by the same individual. He studied them carefully and **separated them into***

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63 Exhibit 117: From the **deposition of US Park Police evidence technician Peter Simonello**, we learn how briefly Sergeant Lockart took to conclude the note was written by Mr. Foster.

> *Q: How long did it take?*
> *A: That I don't really recall. But I think it **was probably about an hour, 45 minutes**, something like that.*

two groups, one being the words from the exemplar and the other from the note. The only words he misplaced were the cursive capital "I's." There was only one of these in each group.

I then showed Sgt. Lockhart blowups of parts of the texts in which these words appeared... ***He concluded from this that one of the documents had probably been written by someone trying to imitate the handwriting of the other****... The exemplar was the same one he had been shown when he was asked to authenticate the torn-up note by the U.S. Park Police in July 1993. Sgt. Lockhart... [then] realized that he had in effect* ***repudiated his original opinion that the note was in Foster's handwriting."***

Conclusion: Since the U.S. Capitol Police Sergeant who performed the analyses for the Park Police (unknowingly) reversed his opinion, the FBI stands alone in its official authentication of the document, which was based upon an inadequate comparison. A world recognized expert also disagrees with the FBI lab. The tearing process would normally produce multiple hard pressings by both the left and right hands resulting in thumb and forefinger prints at numerous points on both sides of the paper. The Fiske report omitted the fact that *no fingerprints were found on the note.* Whoever tore up the forged note would have to have been wearing gloves or have wiped the pieces clean.

Conclusion

Much of the evidence cited herein has to do with the Honda Mr. Foster is alleged to have driven to Fort Marcy Park. Plaintiff saw a car similar to that Honda (also with Arkansas license plates) parked in the very same parking space approximately 70 minutes before the discovery of Mr. Foster's body. Plaintiff avers that the Honda he saw was placed in the park to give potential witnesses with the impression that Mr. Foster's Honda was in the park earlier than it was. But Mr. Foster's car was not in the parking lot — at a time

when he was dead — hence the motive for the section 1985(2) violation alleged.

In Williams v. United States, 218 F.2d 276 (1955), the Fourth Circuit affirmed defendants' conviction of conspiracy to violate a number of sections of the Internal Revenue laws, and held:

> This evidence, which was quite voluminous and given by many witnesses, may be likened to the web of the spider. No single strand, or even several strands, would be sufficient. **Yet when all these strands are considered together, and their interrelations and connections are considered**, they form, we think, a complete web, which was **more than sufficient** to take to the jury the question of a **general conspiracy** among the appellants. On all this evidence, the jury might well have found (as we think they did) that **all those acts just could not have happened save on the theory of a consistent pattern of agreement** between these appellants. (emphasis added)

The foregoing review of the record,[64] almost all of which can be found within the underlying investigative record compiled by the U.S. Government (much of which was never expected to be made publicly available), fairly raises the inference of conspiracy by the FBI during its investigation under Mr. Fiske.

Plaintiff avers that this conspiracy to obstruct justice is continuing. The only difference is that now the FBI "investigation" continues under the auspices of the OIC under Kenneth Starr.

Even though discovery in the instant case has not yet begun, plaintiff suggests that court's holding in Williams is applicable to the instant case. A fair and reasonable inference is that all the evidence

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[64] Because of the court rule prohibiting a memorandum from being in excess of 45 pages, some of the other issues which plaintiff could not address include: (1) There was no damage to Mr. Foster's teeth and soft tissue of his mouth despite that the Colt Army .38 Special had a relatively high recoil and the presence of relatively high front sight; (2) several

proffered herein just could not have happened save on the theory of a consistent pattern of general conspiratorial objective.

WHEREFORE, Plaintiff Patrick Knowlton respectfully asks that defendants' motion for Summary Judgment be denied.

Respectfully submitted,

John H. Clarke
Bar # 388599
Attorney for Plaintiff
1730 K Street, NW
Suite 304
Washington, DC 20006
(202) 332-3030.

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officials reported that the Honda in the parking lot was locked — officially the car was unlocked; (3) the handwritten FBI notes state that a female witness observed an unusual man near the body site the day before the death, but the typed version of that interview was apparently altered to place this man in the opposite section of the park; (4) Mr. Foster asked his lawyer to fly to Washington for a meeting scheduled the day after his death; (5) Mr. Foster's executive assistant according to the Fiske Report stated that "Foster's productivity had dropped significantly in the last few weeks of his life," but the corresponding FBI report is not in accord and states that he had an uncharacteristic lull in his work pace only on the day before his death — he did a lot of "straightening and cleaning" (characteristic of someone who planned to resign as he had told his family and several friends he intended to do); (6) Mr. Foster mailed a letter to his recently widowed mother on July 19th or 20th without any good-byes nor any information of a personal nature; (7) one of Mr. Foster's sisters arrived in Washington to see him as expected on the day he died; (8) the Park Police officer who called in the body's location two minutes and forty-five seconds after his arrival in the parking lot (some seven hundred feet away) is the only person in the record to indicate that Foster's head could be seen as the body site was approached (at least four other witnesses stated that Foster's head was invisible until they reached the body site); (9) that same Park Police officer did not write a report as required -- he hired an attorney relatively soon thereafter; (10) the pager records which could determine what telephone number pages Mr. Foster received that afternoon were never recovered and examined by the FBI; (11) the first two White House officials who called Park Police after the White House was notified of the death had the same *initial*

question, to whom was the gun registered; (12) the death certificate is not a part of the public record; and (13) the Foster family attorney (listed in an internal White House memorandum as a "surrogate") repeatedly tried to prevent the release to the public of a photograph or a photocopy of the suicide note despite the fact that the entire typed transcript of the note had been released to the public by the Park Police.

Appendix F Plaintiff's June 6, 1997 reproduced proffe

Exhibit 1: Affidavit of Kathryn Kaplan, October 26, 1995

AFFIDAVIT:

1. My name is Kathryn L. Kaplan.

2. On October 26, 1995, I accompanied Patrick J. Knowlton on a walk from the Foggy Bottom neighborhood in Washington, D.C., to R Street, N.W., above Dupont Circle, and back.

3. I noticed that the individual identified in the Complaint as Defendant John Doe No. 1, and directed Patrick's attention to this individual. I also witnessed the activities of the individuals identified as John Doe No. 2, John Doe No. 5, John Doe No. 6, John Doe No. 7, John Doe No. 9, John Doe No. 10, and John Doe No. 11.

4. On October 27, 1995, I accompanied Patrick on a walk from the Foggy Bottom neighborhood to the CVS Drugstore on Dupont Circle, and back. Enroute to the CVS drugstore, I observed the car described in the Complaint as being occupied by John Doe No. 12 and John Doe No. 13. I wrote down the license plate number.

5. After the encounter with the individual identified in the Complaint as Defendant John Doe No. 6, Patrick and I discussed trying to remember what these men were wearing and what they looked like. At my suggestion and with my help. Patrick and I wrote down the descriptions of these men within 90 minutes of their being observed.

6. At one point, I became so panic-stricken that I had to struggle to keep from crying. I have never witnessed anything like this before or since. It was intentional, coordinated, intimidating, and extremely unnerving.

I declare under penalty of perjury that the foregoing is true and correct.

May 5, 1997 /S/

Date Kathyrn L. Kaplan

Exhibit 2: Affidavit of Plaintiff

Affidavit:

1. The *"Report of Witness Tampering,"* written by my lawyer and myself, recites that "This Report offers no theory about the death of Vincent Foster," which it does not. It further states the purpose for its publication; "To protect Knowlton from further harm by publicizing the harassment and to establish that Knowlton is credible and stable..., [to provide] investigators with all available details to aid them in their pursuit of the wrongdoers... and to defray the significant costs of its production." That Report was offered for sale only from March through August, 1996.

2. On December 1, 1995, FBI agent James Clemente showed me the car color panel which was apparently the same panel that agent Monroe reported I had picked. That panel was charcoal gray, not rust brown with a dull finish.

3. Before Christopher Ruddy came to my apartment on October 26, 1995 I had never heard of Christopher Ruddy.

4. After I provided my information to the Park Police, and was not further contacted, I thought my information was irrelevant. After I was interviewed by the FBI, I heard that Mr. Foster's death was a suicide at Fort Marcy Park, and I believed it. I did not follow the Whitewater hearings or the news regarding Mr. Foster's death.

5. All facts in the Amended Complaint are true to the best of my information, knowledge and belief, as is every statement I have made regarding the events of July 20th 1993, April 15th 1994, May 11th 1994, and October 26th through November 1st 1995, is true.

I declare under penalty of perjury that the forgoing is true and correct.

/S/
Patrick Knowlton

[Executed June 1997]

Exhibit 3: Polygraph Examination Report, Affidavit of Paul K. Minor, May 2, 1997 (10-page Curriculum Vitae excluded)

AMERICAN INTERNATIONAL Security Corporation

10805 Main Street • Suite 600 • Fairfax, Virginia 22030
(703) 691-1110

Paul K. Minor
President

POLYGRAPH EXAMINATION REPORT

CLIENT:	EXAMINATION DATE:	TIME IN:	TIME OUT:
John H. Clarke	12-21-95	2:00 PM	3:30 PM

EXAMINEE NAME: Patrick J. Knowlton

DATE AND PLACE OF BIRTH: [Deleted] New York

HOME ADDRESS: [Deleted]

SOCIAL SECURITY NUMBER: [Deleted]

PRESENT EMPLOYER AND POSITION: Self-employed

CITIZENSHIP/ALIEN REG. # : U.S.

PURPOSE OF EXAMINATION:

____ Pre-employment screening

__XX__ Specific issue

CONCLUSION:

__XX__ No deception indicated _____ Deception indicated _____ Inconclusive (see information)

INFORMATION: Prior to the polygraph pre-test interview and examination, the examinee read and voluntarily signed the consent/waiver form, which with all other examination material, is retained in our files. Should you need further information, please do not hesitate to contact our office.

Mr. Patrick Knowlton claims he entered Ft. Marcy Park about 1630 hours, July 20, 1993. He requested this examination to verify what he saw there, and to verify what he claims to be subsequent harassment. During the first testing phase the following relevant questions were asked of Knowlton:

A. Have you deliberately lied about what you saw at Ft. Marcy Park on July 20,1993? No.
B. Are you lying about seeing a bluish car and a brown Honda with Arkansas plates? No.
C. Are you lying about seeing a man sitting in the blue car? No.
D. Had you been to Ft. Marcy Park on only one prior occasion? Yes.
E. Did you lie about anything in your Grand Jury testimony of Nov. 1, 1995? No.

During the second phase, the following relevant question was asked:

A. Is the account of harassment true as stated in the report of witness tampering? Yes.

Deception was not indicated to any relevant question.

AFFIDAVIT

1. My name is Paul K. Minor.

2. The content of my POLYGRAPH EXAMINATION REPORT of Patrick J. Knowlton, examined December 21, 1995 is accurate to the best of my knowledge and belief.

I declare under penalty of perjury that the forgoing is true and correct.

5/2/97
Date

/S/
Paul K. Minor

Exhibit 4: Affidavit of Christopher Ruddy, April 24, 1997

AFFIDAVIT:

1. My name is Christopher Ruddy.

2. I have read the Amended Complaint in the case of Knowlton v. U.S. et al, Civil Action No. 96-2467.

3. Although my recollection of the facts as set forth in paragraphs 544 through 73 of the Amended Complaint differ slightly, my recollection of the facts are essentially the same.

4. On Friday, October 27, 1995, as events unfolded, I believed the actions of the men identified in paragraphs 54 through 73 were an obvious attempt to intimidate, and I still believe so today.

I declare under penalty of perjury that the forgoing is true and correct.

April 24, 1997
Date

/S/
Christopher Ruddy

Exhibit 5: Affidavit of Gene Wheaton, April 28, 1997 (12-page Curriculum Vitae not included)

AFFIDAVIT

1. My name is Gene Wheaton

2. I have over 20 years experience as state and federal investigator and over 40 years in the criminal justice system, including international police assistance counter terrorism, and security projects related to intelligence. I have qualified as an expert witness in both state and federal court. I have read Mr. Knowlton's report and the Amended Complaint, with interest, and sympathy for Mr. Knowlton.

3. The Assessment Branch of the CIA is the office of all CIA psychologists. In part because of my close association with the Chief, Assessment Branch, CIA, I became extremely knowledgeable of psychological operations (PsycOps) and techniques of the intelligence community. I am aware of intelligence operations conducted by former and retired intelligence officers, as well as active CIA and military intelligence people.

4. In the area of PsycOps, and both intelligence and criminal investigations, there are various methods and purposes in conducting surveillance. I would have to write a book to explain them all, so I'll limit myself to this particular case.

5. Intimidation is one purpose of a close, obvious surveillance. It can be done for any number of reasons, such as forcing someone to cease activities, move his activities out of the area, soften him up for future interrogation, and many other reasons.

6. This case appears to be the misuse of surveillance techniques to scare and intimidate the witness or to destroy his credibility. This surveillance technique could be expected in the are of illegal intelligence operations.

7. The surveillance team, trained in controlling human behavior, have no fears of the surveillance "target" reporting his fears/observations, as this actually plays into the hands of those people. In fact, they want him to report that he is being mysteriously followed. This is to make him appear paranoid and thus destroy credibility as a witness. Many times it actually causes the target to develop long term or permanent emotional/mental problems.

8. I have used this technique as part of counter-terrorism operations in the Middle East, during counter-surveillance of terrorist cells suspected of preparing assassinations of Americans, and aviation-related terrorist acts/plans.

9. I have knowledge of several people who have been subjected to intimidation and other "dirty tricks" harassment. Many of these individuals have been literally destroyed emotionally, professionally, and financially. Some will come forward if a serious investigation of these illegal intelligence tactics is ever instituted.

10. Mr. Clarke has asked me to render an opinion on the following question: Was one of the purposes of actions described in the Amended Complaint to intimidate Mr. Knowlton to try to prevent him from testifying freely, fully and truthfully? In my opinion, provided the events reported in the Amended Complaint are accurately portrayed, my answer is yes.

I declare under penalty of perjury that the foregoing is true and correct.

April 28, 1997
Date

/S/
Gene Wheaton

Exhibit 6: Affidavit of Ted L. Gunderson, April 23, 1997 (5-page Curriculum Vitaenot included)

AFFIDAVIT:

1. My name is Ted L. Gunderson

2. I am a 28 year veteran of the FBI. Since my retirement in 1979 as Senior Special Agent in Charge of the FBI, Los Angeles Division, I have testified many times as an expert witness in both civil and criminal matters.

3. I have reviewed Mr. Knowlton's report and Amended Complaint which contains allegations of witness tampering and a civil rights violation.

4. If called to testify, I would state as follows:

(1) The misrepresentation and falsification in the FBI report of Mr. Knowlton's interview that was shown to Mr. Knowlton by Mr. Evans-Pritchard 18 months later is inexcusable and established possible purposeful falsification and/or negligence on the part of the interviewing agents and/or the agent preparing the report.

(2) The fact that Mr. Knowlton furnished the information to authorities and was not issued a subpoena to testify more than two years later, after Mr. Pritchard's articie was published on October 22, 1995, is inexcusable and indicates negligence and/or incompetence and/or a deliberate attempt to obstruct justice by hiding his information.

(3) Mr. Knowlton's allegations of harassment are well documented. That which is described is a technique that I am both aware of and knowledgeable about which his used by government agents and law

enforcement officers. This technique is used for intimidation and to prevent a witness from testifying and/or testifying truthfully and/or cooperating with officials out of fear of harm to the witness or his loved ones.

(4) The reported attempt to discredit Mr. Knowlton by officials is used by government agents and law enforcement officers against witness. I have knowledge of this tactic and know of instances when it has been used.

(Page 1 of 2 pages)

The question remains, did the Office of Independent Counsel initiate action to identify the man in the automobile in the park? Did they take appropriate action to investigate the harassment of Mr. Knowlton particularly since they know of at least four individuals who harassed him? Have they taken any steps to reprimand those within their ranks who have not followed through with these matters? Have they taken any action to confirm whether violations of the Federal Statutes have occurred in which Mr. Knowlton is a victim? If not, as an expert witness, I would state that there is an attempt to cover-up these specific violations alleged by Mr. Knowlton and probably to further obfuscate other circumstances concerning Mr. Foster's death.

I declare under penalty of perjury that the foregoing is true and correct to the best of my information, knowledge, and belief.

April 23, 1997 /S/
Date Ted L. Gunderson

(Page 2 of 2 pages)

[emphasis supplied]

Exhibit 7: **Psychiatric Report of Dr. Thomas C. Goldman, M.D., February 26, 1996, Affidavit (Curriculum Vitae, & psychologist's 8-page Curriculum Vitae not included)**

THOMAS C. GOLDMAN, M.D.
PSYCHIATRY & PSYCHOANALYSIS
4120 Linnean Avenue, N.W.
Washington, D.C. 20008

Telephone (202) 244-7142

February 26, 1996

John H. Clarke, Esquire
Law Offices
720 Seventh Street, N.W.
Suite 304
Washington, D.C. 20001

Dear Mr. Clarke:

Pursuant to your referral I conducted a psychiatric examination of your client. Patrick Knowlton, with the specific purpose of advising you on matters relating to his credibility with regard to his reports of attempts to harass him as a potential witness before the Whitewater Grand Jury last October. I have used the following sources of information: A clinical interview of two hours with Mr. Knowlton on Feb. 22, 1996; telephone interviews with Mr. Knowlton's woman friend Kathyrn L. Kaplan, on Feb. 23 and 24 totaling about one and one-half hours; the draft of his "Report of Witness Tampering," which you provided; some brief anecdotal information, also provided by you; and phone consultations with Dr. Lanning Moldauer, to whom I referred Mr. Knowlton for specific psychological tests. What follows is a summary of my opinions and the date upon which they are based.

The question of credibility, as you defined it, had mainly to do with Mr. Knowlton's report of systematic harassment occurring on the streets around Mr. Knowlton's home beginning on the evening of Thursday, Oct. 26, 1995. During that evening and over the course of the next few days, according to Mr. Knowlton's detailed report, over two dozen instances occurred of male individuals making unusual contact with him, including staring at him intently as he walked or stood on the street, following him, brushing his shoulder in passing when there was ample room on the sidewalk to avoid him, and in at least one case pointing a finger at him in a way that suggested a gun shooting. These encounters lasted anywhere from a few seconds to more than a minute. Those occurring on Oct. 26 were also observed by Kathyrn L. Kaplan whom Mr. Knowlton was accompanying on a walk to the CVS drugstore on Dupont Circle that evening. Those occurring at the noon hour on Friday, Oct 27 were also observed by reporter Christopher Ruddy who accompanied Knowlton on his walk.

Knowlton's report contained a fair amount of detail about each encounter, including the approximate age, height and weight as well as the manner of dress of each of the persons involved, and a description of what he observed the person doing. In general these descriptions remained consistent in his re-telling them to me and in Kathyrn Kaplan's recounting. Most if not all of the persons described were said to be strong-looking and relatively young apparently in good physical shape, and it was noted that the one encountered on Thursday evening looked particularly fresh, as though they were just starting their work days, rather than looking as a normal person might at the end of a work day. Nothing in the descriptions of any of these individuals suggested anything so far outside the realm of the possible as to seem incredible (granted the assumption, of course, that a concerted attempt at harassment of a witness is something that might actually occur). There is nothing of the bizarre (granted, again, that the behavior described is out of the ordinary) or highly idiosyncratic in the descriptions that would suggest a delusional process.

Upon interview, Mr. Knowlton presented as solid-looking white male of medium height with brown hair, balding in the middle,

looking about his stated age (41). His manner was for night and appropriately casual rather than formal. He displayed no unusual mannerisms and spoke coherently and fluently with no notable peculiarities of expression or articulation. He appeared to be of at least average and probably above average intelligence. Though he was a bit tense, he smiled on a number of occasions, particularly as he described some of the encounter of last October, in what appeared to be an appropriate response to the unusualness of behavior of the people described, as well as an understandable attempt to relieve tension. His mood was neither elated nor obviously depressed and he showed good concentration with no evidence of intrusions from hallucinations or other distractions. While he seemed eager to tell his story there was no pressure of speech and he had no trouble stopping his narrative in order to respond to questions. His descriptions of the events were consistent with what was in his report.

Listening to his narrative, a clear picture developed of the course of events. Kathy had been the first person to notice that a man was looking at him strangely (on Thursday evening). He began to make similar observations and describes going through a normal series of thought processes including initial puzzlement about what could be happening and a partial wish to avoid eye contact with the men and to deny that anything unusual or frightening was happening until it was impossible the denial. He did not initially connect the events with the fact of his being a witness, although he recalls that both he and Kathy thought "Secret Service" when they saw the first subject talking into what appeared to be a wrist radio. He first entertained the thought that the subjects were gay men cruising but dismissed it relatively quickly since they looked "macho". By the time he and Kathy had left the drugstore it was impossible to deny they were being watched and harassed according to both their reports) and they were quite frightened, to the point that Knowlton felt rubber-legged thought he could hear his own heart beating. The men represented a potential physical threat and they both entertained thoughts that they might be assaulted or killed. While at a nearby restaurant, the couple tried to plan a strategy to deal with the situation. Knowlton believes it was Kathy who suggested writing down descriptions of all the subjects.

Clearly, then, they were both in a state of high alertness owing to their perception of extreme danger. By this time they had connected the events with the act of Patrick's being a witness, and his subsequent actions (contacting the reporter, etc.) are consistent with this understanding and with a reasonable attempt to fight the danger by making careful observations, getting third parties to confirm what was happening, taking photographs of suspects, calling the FBI agent, and so forth. Given his perception of the situation at the time, it is not unusual that he could imagine that a man opening the truck of his car near him on the street could be taking out a gun. Mr. Knowlton also believes, with apparently good evidence, that his phone has been tampered with. He does not, however evince any beliefs that he or his belongs have been tampered with in other ways. He did not believe, for example, that his food was being poisoned, that people were talking about his private life, that people were entering his apartment and moving things around while he was away, that curious coincidences were occurring everywhere, that people were talking or laughing about him behind his back, that God or some superior force was directing events around him for personal reasons. In short, he did not display typical paranoid delusional thinking.

You had asked me to opine on whether it was possible for an ordinary person to make such a large number of detailed observations given the short period of time. The following observations are relevant to this question: First, Mr. Knowlton was clearly in a state of high alert from perceived danger. In such a state, perceptions are generally heightened in intensity and powers of concentration and recall can be greatly enhanced by the normal neurohumoral responses of the body, brain and nervous system. These are anything but casual observations. Secondly, Mr. Knowlton tends naturally to be a person who is attentive to details in his environment. According to Kathyrn Kaplan he characteristically would note details of buildings on their walks together, wondering aloud why something was built in a particular way. She also describes him as a generally confident person who feel he can take care of himself and although not belligerent will tend to confront danger directly rather than attempt to avoid them. This would be

consistent with his wanting to know who was harassing him and why and with his taking an active role in solving the problem.

Thirdly, Mr. Knowlton was administer the Wechsler Memory Scale, Revised by Dr. Moldauer. This is a standardized, widely - used and well – respected instrument. The results indicated that while Mr. Knowlton scored in the average range overall, his performance on the Visual Reproduction subtests 1 and 2 was quite superior. These are the tests closest in form to the actual situation that occurred on Oct. 26 and the days following. The subject is shows abstract design for ten seconds and then asked to reproduce them from memory after a thirty-minute delay. Mr. Knowlton was able to reproduce 37 out of 41, placing him in the 90th percentile (that is, he scored better than none out of ten people in the general population would be expected to score). This test result demonstrated that under certain circumstances Mr. Knowlton has unusually good powers of delayed recall of visually – presented stimuli and would be consistent with his ability to report accurately on the events of late October 1995. Additionally, Dr. Moldauer administered the MMPI, a standard personality inventory, to Mr. Knowlton. The test showed no indication of a paranoid processor of any other pathological process that would tend to undermine Mr. Knowlton's credibility in this instance.

To the present, Mr. Knowlton remains seriously concerned with the fore going events and their ongoing significance. He exhibits signs and symptoms of emotional stress including sleep disturbance, appetite and eating disturbance, loss of sexual interest, diminished investment in his daily exercise routine, and an exaggerated startle response. His concentration has at times been impaired and he reports feeling more vulnerable and less confident. Kathyrn Kaplan reports he is more withdrawn and irritable and that his mood, previously buoyant, is now often preoccupied and tense.

In conclusion, Mr. Knowlton appears to be a man without any previous significant mental disorder, who has been subjected to a traumatic set of events beginning with the chance occurrence of his having been in Ft. Marcy park on a summer day and having made certain observations and reported upon them consistent with his

normal conception of his duty as a citizen. Subsequ4ent events appear to have been of such a nature that a normal person would feel threatened in the extreme and continue to have apprehensions about the future. Mr. Knowlton's response to the situation contains elements of excellent coping (e.g. making and reporting observations, seeking help) and elements of feeling overwhelmed indicated by typical signs and symptoms of post-traumatic stress. The stress appears to come from two related sources: one, the sense of physical danger naturally engendered by the harassment described; and, two by the experience of being treated by recognized authority figures with mistrust and suspicion and attempts to discount or discredit him, in response to his attempts to tell the truth and to be a responsible citizen.

Please contact me if I can be of further assistance. Thank you for the opportunity to work with you and your client.

Sincerely,

/S/

Thomas C.Goldman, M.D.

AFFIDAVIT:

1. My name is Thomas C. Goldman.

2. The contents of my February 26, 1996 letter to Mr. Clarke regarding my psychiatric examination of his client, Patrick Knowlton, are true to the best of my information and Patrick Knowlton, are true to the best of my information and belief.

I declare under penalty of perjury that the foregoing is true and correct.

1/22/97
Date

/S/
Thomas C. Goldman, M.D.

Exhibit 14: Testimony of FBI Agents Larry Monroe and William Colombell, S.HRG 103-889 p. 55-56

Mr. COLOMBELL. Senator, I'm sorry we don't have the information you wanted. We met with the staff of the Committee yesterday to discuss possible areas and the focus of this hearing. We did not think that was going to be one of the areas. Had we known so, we could have possibly made an effort to have that information for you, but we will have that information for you, I will assure.

Senator BOND. Mr. Chairman, I'd say that's fair because we have just found out who these gentlemen are. I did not have the information, until you told us, as to what Mr. Monroe's responsibilities were. Obviously we have more work to do.

The CHAIRMAN. I think the witnesses' answers are responsive and they have said that they'll go back and provide that information. If they had known about it before right now they would have had it prepared for you now, so I think we have to leave it at that.

Senator BOND. One final thing. Our staff asked that you bring all the information that you had on this matter. You did not withhold anything in your possession that relates to this inquiry; is that fair?

Mr. MONROE. Absolutely not, Senator.

Senator SARBANES. Mr. Chairman, could I make an inquiry?

The CHAIRMAN. Yes.

Senator SARBANES. Does the Committee have other FBI reports of interviews that were done in Little Rock with respect to this matter?

Senator BOND. Yes. Brantley Buck was interviewed in Little Rock.

The CHAIRMAN. Is there anyone on this side who seeks recognition?

Senator Dodd.

Senator DODD. Dr. Hirsch, you have been a pathologist since 1969; is that correct?

Dr. HIRSCH. Longer than that. I've been a full-time career forensic pathologist since 1969.

Senator DODD. It's fair to say you've been involved in literally hundreds of cases involving homicides?

Dr. HIRSCH. Thousands.

Senator DODD. Thousands.

And Mr. Monroe and Mr. Colombell, how long have you been with the agency, the Bureau?

Mr. Monroe. I've been with the Bureau about 29 years.
Mr. COLOMBELL. I've been an agent 30 years.

Senator DODD. Is it fair to assume you've been involved in hundreds, if not thousands, of investigations?

Mr. MONROE. Mr. Colombell more than myself, but those rough figures are probably in the ballpark, sir.
Senator DODD. It's your conclusion, as has been stated, that Mr. Foster committed suicide. There's no doubt in any of your minds about that?

Mr. MONROE. No doubt.

Mr. COLOMBELL. No doubt at all.

Senator DODD. While I understand there may be -- and I presume this is true in any investigation -- things that could have been done a

bit better with 20/20 hindsight, but in your professional capacities, I want to use the word "significant" -- **were there any "significant" irregularities in the Park Service Police's investigation?**

Mr. MONROE. Your question, Senator, had to do with the Park Police and the response that I have to that is we do not know of any significant irregularities.

Senator DODD. Mr. Colombell?

Mr. COLOMBELL. **Senator, I do not know of any.**

Senator DODD. Dr. Hirsch, in your examination of the Park Service's handling of this matter, did you encounter any significant irregularities in how they conducted their work?

Dr. HIRSCH. The objective evidence, photographic evidence, principally provided to me, which is the work product of the Park Police, was adequate to give me an opportunity to form an independent opinion and make an independent evaluation about the observations at the scene of Mr. Foster's death. From that standpoint, their work was adequate. Could it have been better? Of course. My work can be better, too, but the objective documentation, which is the important thing to me, I just don't have to take somebody else's word for it is there and it unequivocally establishes very important features about the investigation of Mr. Foster's death.

Senator DODD. You said, Mr. Monroe, in testimony that you questioned approximately 125 people including friends, family, and White House colleagues and there was documentary photographic evidence as well as the autopsy report; analyzed blood, DNA, fingerprints, handwriting tests were performed, and a forensic pathology panel was convened. The second question I have, has to do with whether or not, in your views, those of you who looked at this, was there any correlation between Mr. Foster's tragic suicide and Whitewater?

Mr. MONROE. As I said before, Senator, we cannot conclusively rule out that Whitewater could have played some role. What we can

say right now is that we uncovered no evidence that during this period of time that Mr. Foster raised any concern regarding that particular issue.

Senator DODD. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Dodd.

Senator Gramm.

Senator GRAMM. Mr. Chairman, let me first thank our witnesses. You guys have a very tough job. I'm glad you do it and it's obvious to me you do it well and I think the whole country is the beneficiary. I think the subject matter you're covering is one that we are all confident that basically a good job was done in.

Mr. Chairman, I just want to take my time to respond to several comments that were made earlier about why are we here, why are we on this subject, and what is wrong with this process that we're talking about the death of a human being in very tragic circumstances.

I would like to remind my colleagues that we are here as a result of a resolution by Senator Mitchell that every Member of the Republican Party in the Senate voted against. We're here as a result of the scoping of this hearing in such a way that this is one of only three areas that we're allowed to look at. It is not an area that I am the least bit interested in.

Exhibit 23: Testimony of Defendant Monroe, S.HRG 103-889 p. 44

On the afternoon of July 20, 1993, in Fort Marc Park, Fairfax County, Virginia, Vincent Foster committed suicide. As discussed below, the evidence overwhelmingly supports this conclusion and there is no evidence to the contrary. This conclusion is endorsed by all participants in the investigation, including each member of the pathologist's panel we found [Fiske Report excerpt]]no evidence that issues involving Whitewater, Madison Guaranty, CMS, or other personal legal matters of the President and Mrs. Clinton were factors in Mr. Foster's suicide. While Foster did confide to his family and friends in the weeks prior to his death, that certain matters were troubling him, we have learned of no instance in which Whitewater, Madison Guaranty, CMS, or other possible matters of the Clintons were mentioned. Moreover, in the spring and summer of 1993, Whitewater and Madison Guaranty related matters were not matters, issues of concern either within the White House or the press.

That is the full summary of conclusions of Mr. Fiske and his panel and I thought they ought to be in the record at this point.

Gentlemen, I understand that one of you has a statement to make at the outset. Mr. Monroe, you have a prepared statement so let us call on you first to make that comment and then when you've completed that, we'll go to questions by the members. Mr. Monroe.

Mr. MONROE. Thank you Mr. Chairman. Good afternoon, Senators. I am Special Agent Larry Monroe of the Federal Bureau of Investigation. In March of this year, I was assigned to the Office of Independent Counsel headed by Robert Fiske, along with several other FBI agents, including special agent Bill Colombell, who is seated to my left. Our primary responsibility, at that time, was to investigate the circumstances surrounding the of death Deputy White House Counsel, Vincent W. Foster, Jr.

At the outset of the investigation, we knew that in the early evening of July 20, 1993, Mr. Foster's body was found in Fort Marcy Park in Fairfax County, Virginia. Our investigation sought to answer three questions about his death. First, did Mr. Foster commit suicide or was he murdered? Second, if the death was a suicide, did it occur in Fort Marcy Park or had the body been moved? And third, if Mr. Foster committed suicide, was it motivated in any way by concerns he may have had about legal issues related to the Clintons' involvement in the Whitewater Development Company or Madison Guaranty Savings & Loan?

We were instructed by Mr. Fiske and his legal staff to conduct a thorough and an aggressive investigation and to take all reasonable steps to resolve these questions. We are satisfied that we have done so.

During the course of our investigation, approximately 125 people were interviewed, including Mr. Foster's close friends, family, and the people that worked most closely with him at the White House. These people provided valuable insight into Mr. Foster's state of mind in the weeks prior to his death. We also interviewed everyone known to have been in Fort Marcy Park on the afternoon or evening of Mr. Foster's death, including a confidential witness who first found the body, members of the Fairfax County Fire & Rescue Department who responded to the park, the Park Police investigators who conducted the investigation in the park, and the Fairfax County medical examiner who was present in the park.

We also interviewed Dr. James Beyer who conducted the autopsy on Mr. Foster. In addition to these and other interviews, we analyzed physical and photographic evidence, as well as documentary evidence obtained from a number of sources, including the White

terms of their following proper procedures in regards to this investigation?

Mr. MONROE. No, I am not, Senator.

Senator MOSELEY-BRAUN. Finally, was there anything about this investigation, in terms of the FBI involvement with this investigation, that was in an way at variance with any procedure of the FBI in these kinds of cases?

Mr. MONROE. No, Senator.

Senator MOSELEY-BPAUN. Mr. Chairman -- that's all I have by way of questions.

Mr. Chairman, for the record, I don't know if it was introduced during the colloquy between Senator Sarbanes, and I don't know if Senator Gramm was here or not at the time, but I think it's important with regard to the issue of why we're here and talking about this his at all, that the record reflect the resolution by Senator D'Amato asking for a special subcommittee to be developed for these hearings. This resolution at sub L says that the purpose of the special subcommittee is "the Park Police investigation into the death of White House Deputy Counsel, Vincent Foster" and then to point out that that resolution was rejected. Senator Mitchell countered with the final substitute that became S. Res. 229, which at sub B says "the Park Police investigation into the death of White House Deputy Counsel, Vincent Foster." I think it's very important for the record to reflect the genesis of all this came from the proposal by the Senator from New York and that we are trying to fulfill his request in that regard.

The CHAIRMAN. Without objection, it will be made a part of the record.

Senator Bennett.

Senator BENNETT. Thank you, Mr. Chairman. I'm going to violate a rule that I understand is taught in law school. Since I didn't go to law school, I might be able to get away with that. The rule is never ask a question to which you do not know the answer in advance. I'm curious. I don't have the slightest idea what your answer is going to be, but I'd like to know. From the standpoint of curiosity, with no hidden agenda or desire to read anything into your answer, I just want to know. **The FBI identified blond/light brown head hairs of Caucasian origin dissimilar to Mr. Foster's on several pieces of clothing. Has the FBI investigation determined the identity of those blond Caucasian head hairs?**

Mr. MONROE. **No, we have not, sir**, and I'd be glad to respond why not. Basically for the following reasons, sir. **There were three blond hairs found on articles of clothing,** as you've said. **Our objective, as I've mentioned before, was to find out how Mr. Foster died,** why did he die, and whether Whitewater at all played any role.

It was our professional judgment that trying to determine that hair would not lead us or advance us in this objective. And let me go one step further, if I could, sir. **The source of this hair could have been boundless. It could have been obtained at work. There was a White House ceremony that morning. It could have been from his residence. It could have been from his automobile, which was used quite often by his children, during the autopsy, during the period of time that the clothing was in the possession of the U.S. Park Police, any blond-haired person at the death scene, and there's no way to determine whether or not those hairs were on those certain articles of clothing either on the day of his death or days previous to it. We were also very well aware, sir, that Mr. Foster's daughter, 21-year-old daughter, has blond hair --**

Senator BENNETT. As I say, I'm not trying to read anything into this. I just want to know and I **think your answer has been forthcoming, and it contributes to the kind of let's-settle-this-once-and-for-all attitude that we're hearing here. We can put this aside now as anything sinister and I'm happy to do that.**

Mr. MONROE. There's nothing sinister whatsoever.

Senator BENNETT. The second one is in the same category. I'm curious. **The FBI identified carpet-type fibers of various colors.** They contain red, dark pink wool fibers on various pieces of his clothing. **Does the FBI have any idea where that came from? Was there any attempt made to match that with any carpet in his home, car, or office?**

Mr. MONROE. No, sir, and for the same reasons I provided in response to your first question relative to the hairs. They were multiple colors. We had no way to match those particular carpets up, outside the fact that they most likely came from his residence or from his office, and if we had any knowledge of any other venue or location he might have been at, specifically the day of his death, we would have done it. So once again, Senator, nothing sinister whatsoever.

Senator BENNETT Thank you.

You made reference to the fact that the clothing might have been contaminated by being mixed with other clothing as part of the investigation. Is that one of the irregularities, significant or not, to which you would refer in response to the kind of thing that Senator Mack was talking about, that in hindsight, the clothing should have been sequestered better than it was or, once again, is that an insignificant item? Once again, I don't know. I'm just curious.

Mr. MONROE. It could have been very significant. The clothing, after the autopsy, was commingled, and you're right, Senator, where that particular hair or fiber was attached to at the time of the FBI laboratory does not mean that's where it was when Mr. Foster met

his death. In this particular case, I don't believe it was significant, but it could be in future cases.

Senator BENNETT. Just to summarize what I think I'm hearing you say: If this had been a murder, then that procedure in handling the clothing would have been inexcusable. Since it was a suicide and we all know it's a suicide, it turns out not to have mattered. Is that a fair summary?

Mr. MONROE. No, I don't think so. I'd like to clarify it. In any death investigation, we had overwhelming evidence to reflect that it was a suicide, and not to make a distinction between a homicide and a suicide. Obviously, a death is -- determining the manner of death is important whether it be a suicide or homicide.

Am I clarifying my response?

Senator BENNETT. Not really, but it probably doesn't matter. Thank you.

Mr. MONROE. Well, you were kind enough to ask the question. I'd like to be able to respond.

Exhibit 84: Testimony of Defendant Monroe, S.HRG p. 45 p.

House. Experienced FBI laboratory technicians in the FBI laboratory here in Washington performed extensive analysis of the physical evidence identified in this case, including the gun found in Mr. Foster's hand, his clothing, and a blood sample taken at the time of the autopsy. In addition, the FBI lab performed extensive analysis of the Park Police photographs taken of Mr. Foster's body in Fort Marcy Park and during the autopsy. The lab results are contained in reports attached to the Independent Counsel's report issued on June 30, 1994.

A four-member panel of experienced and respected forensic pathologists reviewed the results of our investigation. One member of this panel is Dr. Charles Hirsch, who is seated to my immediate right. Dr. Hirsch is the chief medical examiner for the city of New York and chairman of the Department of Forensic Medicine at New York University Medical School.

Also joining Dr. Hirsch on the panel were Dr. James Luke who is a forensic pathology consultant at the FBI Academy and a project director of the Armed Forces Institute of Pathology. Dr. Donald Ray, who since 1975, has served as the chief medical examiner for King County, Seattle, Washington and who was a professor of pathology at the University of Washington. And Dr. Charles Stahl, who is a distinguished scientist and armed forces medical examiner at the Armed Forces Institute of Pathology.

All of the participants in this investigation--the attorneys, myself, my fellow FBI agents, and the pathologists I have just mentioned- join in the conclusion that on the afternoon of July 20,1993, in Fort Marcy Park, Virginia, Mr. Foster committed suicide by firing a bullet from a .38 caliber revolver into his mouth. We firmly believe that the evidence compiled during this investigation should dispense of all other theories or speculations about his tragic death.

First, there can be no question that Vincent Foster committed suicide. Interviews with Mrs. Foster and other family members revealed **that Mr. Foster was deeply depressed in the weeks prior to his death. Those close to him told us that in those final weeks he had lost considerable weight and was having trouble sleeping. He appeared exhausted most of the time and he began to take on a drawn and gray appearance. Family and friends stated that he appeared distracted and worried most of the time and that he became quite subdued. Coworkers, including former White House Counsel, Bernard Nussbaum, noted that his productivity at the White House began to decline.**

We learned that Mr. Foster was deeply disturbed by the fallout from the travel office matter over which the Counsel's Office was harshly criticized in the press. We also know that he was distressed about the criticism that he received in a series of editorials that appeared in The Wall Street Journal.

At one point he told family members and a close friend that he was considering resigning his position. His wife and sister believe that he did not do so because he would have felt humiliated had he returned to Arkansas under those circumstances. On Friday, July 16, 4 days before he committed suicide, he told his sister that he was battling depression. His sister provided him with the names of three psychiatrists and encouraged him to contact one of them.

Appendix G List of exhibits in June 6, 1997 opposition to summary judgment Exhibits (118)

[NOTE: Exhibits to plaintiff's summary judgment [24] -- LODGED.

Exhibit 1: Affidavit of Kathryn Kaplan, October 26, 1995

Exhibit 2: Affidavit of Plaintiff

Exhibit 3: Polygraph Examination Report, Affidavit of Paul K. Minor, May 2, 1997, Curriculum Vitae

Exhibit 4: Affidavit of Christopher Ruddy, April 24, 1997

Exhibit 5: Affidavit of Gene Wheaton, April 28, 1997, 12-page Curriculum Vitae

Exhibit 6: Affidavit of Ted L. Gunderson, April 23, 1997, (5-page Curriculum Vitae

Exhibit 7: Psychiatric Report of Dr. Thomas C. Goldman, M.D., February 26, 1996, Affidavit, (Curriculum Vitae, & psychologist's 8-page Curriculum Vitae

Exhibit 8: Report of the Independent Counsel In Re Vincent W. Foster, Jr., Washington, D.C. June 30, 1994 by Robert B. Fiske, Jr. (hereinafter called "Fiske Report")

Exhibit 9: The Fiske Report, p. 4

Exhibit 10: The Secret Service Memo, Hearing Before the Committee on Banking, Housing, and Urban Affairs United States Senate, S.HRG 103-889 (hereinafter

called "S.HRG 103-889") Volume XIV pp. 4022-4023

Exhibit 11: Federal Security Systems Work Order, S.HRG 103-899 p. 2554-2555

Exhibit 12: Sherburne Memo May 15, 1996, Investigation of the White House Travel Office firings and Related Matters, Fifteenth Report by the Committee on Government Reform and Oversight House Report 104-849 (hereinafter called "Sherburne Memo HR 104-849") pp. 682

Exhibit 13: Testimony of Defendant Larry **Monroe**, S.HRG 103-889 p. 76

Exhibit 14: Testimony of FBI Agents Larry **Monroe** and William Colombell, S.HRG 103-889 p. 55-56

Exhibit 15: The FBI Receipt for Property Received, S.HRG 103-889 p. 2112

Exhibit 16: The Affidavit of James H. Jones, Curriculum Vitae (hereinafter called "Affidavit of James H. Jones")

Exhibit 17: Deposition of John C. Rolla In Re: S. Res. 229, S.HRG 103-889 (hereinafter called "Deposition of John C. Rolla") p. 428-429

Exhibit 18: Deposition of John Rolla, S.HRG 103-889 p. 429

Exhibit 19: Deposition of Kevin B. Fornshill In Re: S. Res. 229, S.HRG 103-889(hereinafter called "Deposition of Kevin B. Fornshill")

Exhibit 20: Deposition of Kevin B. Fornshill, S.HRG 103-889 pp. 917-918

Exhibit 21: U.S. Park Police Evidence / Property Control

Receipts, S.HRG 103-889 pp. 2187, 2193, 2195, 2197

Exhibit 22: FBI 302 of Emergency Medical Technician (hereinafter "paramedic") Richard Arthur, S.HRG 103-889 p. 1382

Exhibit 23: Testimony of Defendant **Monroe**, S.HRG 103-889 p. 44

Exhibit 24: U.S. Park Police Investigator Rolla's handwritten notes, S.HRG p. 2527

Exhibit 25: Deposition of John Rolla, S.HRG 103-889 p. 393-394

Exhibit 26: FBI 302 Report of Interview with Civilian # 1, S.HRG 103-889 p. 1474

Exhibit 27: FBI 302 Report of Interview of Civilian Witness # 2, S.HRG 103-889 p. 1472

Exhibit 28: FBI 302 Report of Interview with Paramedic Todd Hall, S.HRG 103-889 p. 1387

Exhibit 29: FBI 302 Report of Interview with U.S. Park Police Investigator Rolla, S.HRG 103-889 p. 479

Exhibit 30: FBI 302 Report of Interview with Civilian Witness # 2, S.HRG 103-889 p. 1472

Exhibit 31: Deposition of Cheryl A. Braun In Re: S. Res. 229, S.HRG 103-889 (hereinafter "Deposition of Cheryl A. Braun") p. 522

Exhibit 32: U.S. Park Police Synopsis and Conclusion, S.HRG 103-889 pp. 2114-2115

Exhibit 33: Department of Treasury Laboratory Report, S.HRG

103-889 pp. 2433-2434

Exhibit 34: Fiske Report, p. 35

Exhibit 35: Deposition of Kevin B. Fornshill, S.HRG 103-889 p. 944

Exhibit 36: Deposition of Kevin B. Fornshill, S.HRG 103-889 p. 944

Exhibit 37: FBI 302 Report with Fairfax County Fire and Rescue Department (hereinafter "Fire & Rescue") James Iacone, S.HRG 103-889 p. 358

Exhibit 38: Incident Report of paramedic George Gonzalez, S.HRG 103-889 p. 1051

Exhibit 39: Handwritten notes [redacted] taken by FBI agents assigned to the investigation of regulatory Independent Counsel Robert B. Fiske, Jr., that were used in the preparation of typewritten witness statements (known as FBI 302's), provided pursuant to the Freedom of Information Act (hereinafter called "FBI handwritten notes") of the interview with Dr. Donald Haut, Medical Examiner

Exhibit 40: FBI 302 Report of an Interview with paramedic Todd Hall, S.HRG 103-889 p. 1162

Exhibit 41: FBI 302 Report of an Interview with Fire and Rescue Jennifer Wacha, S.HRG 103-889 p. 1354

Exhibit 42: FBI 302 Report of Interview with paramedic Richard Arthur, S.HRG 103-889 p. 1563

Exhibit 43: FBI handwritten notes of interview with Richard Arthur

Exhibit 44: Deposition of Todd S. Hall In Re: S. Res. 229,

S.HRG 103-889(hereinafter called "Deposition of Todd S. Hall") p. 1148

Exhibit 45: Fiske Report, p. 35

Exhibit 46: Deposition of John Rolla, S.HRG 103-889 p. 393-394

Exhibit 47: U.S. Park Police Evidence / Property Control Receipt, S.HRG 103-889 p. 2189

Exhibit 48: FBI 302 of William H. Kennedy, S.HRG 103-889 p. 1616

Exhibit 49: Sherburne Memo HR 104-849, p. 657

Exhibit 50: FBI 302 Report of Interview with George Gonzalez, S.HRG 103-889 p. 1048

Exhibit 51: FBI 302 Report of Interview with Todd Hall, S.HRG 103-889 p. 1162

Exhibit 52: Deposition of Kevin B. Fornshill, S.HRG 103-889 p. 968

Exhibit 53: FBI 302 Report of Interview with Plaintiff, S.HRG 103-889 p. 1526

Exhibit 54: Deposition of Cheryl A. Braun, S.HRG 103-889 p. 532

Exhibit 55: U.S. Park Police handwritten interview notes of an interview with Mrs. Foster, S.HRG 103-889 p. 2227

Exhibit 56: U.S. Park Police Report of interview with Mrs. Foster, S.HRG 103-889 p. 2153

Exhibit 57: Deposition of John Rolla, S.HRG 103-889 p. 449

Exhibit 58: Black and White Photograph of the gun pp. 2411,

2407 (ABC News Color Photo of the Gun)

Exhibit 59: FBI 302 of interview with Mrs. Foster, S.HRB 103-889 pp. 1646-1649

Exhibit 60: Fiske Report, p. 38

Exhibit 61: Madison Guaranty S&L and the Whitewater Development Corporation Washington, DC Phase Report of the Committee on Banking, Housing, and Urban Affairs United States Senate on the Inquiry into the U.S. Park Police Investigation of the Death of White House Deputy Counsel Vincent W. Foster, Jr., Rept. 103-433 Vol. I p. 30

Exhibit 62: FBI handwritten interview of George Gonzalez

Exhibit 63: Deposition of Richard M. Arthur In Re: S. Res. 229, S.HRG 103-889 (hereinafter called "Deposition of Richard Arthur") p. 883

Exhibit 64: Deposition of Richard Arthur, S.HRG 103-889 p. 910

Exhibit 65: Fiske Report, p. 46

Exhibit 66: Testimony of Defendant **Monroe**, S.HRG 103-889

Exhibit 67: Fiske Report, p. 36

Exhibit 68: FBI 302 Report of interview with Dr. Donald Haut, S.HRG 103-889 p. 1660

Exhibit 69: Deposition of John Rolla, S.HRG 103-889 p. 401

Exhibit 70: Deposition of Richard Arthur, S.HRG 103-889 p. 887

Exhibit 71: Deposition of Richard Arthur, S.HRG 103-889 p. 891

Exhibit 72: FBI 302 Report of interview with paramedic Corey Ashford, S.HRG 103-889 p. 1347

Exhibit 73: Report of Vincent Scalice, Laboratory Analysis by Richard Saferstein, Affidavit of Vincent Scalice, Resume Vincent Scalice, Resume Fred Santucci, Resume of Richard Saferstein

Exhibit 74: FBI handwritten interview notes of John Rolla

Exhibit 75: FBI 302 Report of interview with Lieutenant Gavin, S.HRG 103-889 p. 1553

Exhibit 76: FBI Lab Report, Fiske Report Appendix 1

Exhibit 77: Fiske Report, p. 42

Exhibit 78: FBI 302 Report of interview with John Rolla, S.HRG 103-889 p. 479

Exhibit 79: FBI Lab Report, Fiske Report Appendix 1

Exhibit 80: FBI 302 Report of interview with Cheryl Braun, S.HRG 103-889 p. 1624

Exhibit 81: FBI Lab Report, Fiske Report Appendix 1

Exhibit 82: Fiske Report, p. 42

Exhibit 83: Photograph of Mr. Foster's Eyeglasses, S.HRG 103-889 p. 2448

Exhibit 84: Testimony of Defendant **Monroe**, S.HRG p. 45

Exhibit 85: The FBI Receipt for Property Received, S.HRG 103-889 p. 2112

Exhibit 86: Deposition of John Rolla, S.HRG 103-889 p. 426

Exhibit 87: FBI 302 Report of interview with Franz Josef Ferstl, S.HRG 103-889 p.1629

Exhibit 88: FBI Lab Report, Fiske Report, Appendix 1

Exhibit 89: Deposition of Peter Simonello In Re: S. Res. 229, S.HRG 103-889 (hereinafter called "Deposition of Peter Simonello S.HRG 103-889) p. 637-638

Exhibit 90: Fiske Report, pp. 4, 33, 40, 48

Exhibit 91: Fiske Report, p. 51

Exhibit 92: Fiske Report, p. 8

Exhibit 93: FBI 302 Report of interview with Dr. Larry Watkins, S.HRG 103-889 pp. 1674-76

Exhibit 94: Testimony of Defendant **Monroe**, S.HRG 103-889 p. 45

Exhibit 95: FBI 302 Report of interview with Susan Thomases, S.HRG 103-889 p. 1778

Exhibit 96: FBI 302 Report of interview with Marsha Scott, S.HRG 103-889 p. 1749

Exhibit 97: FBI handwritten interview notes of interview with Linda Tripp

Exhibit 98: FBI 302 report of interview with Linda Tripp, S.HRG 103-889 p. 1534

Exhibit 99: Deposition of John Rolla, S.HRG 103-889 pp. 449, 457

Exhibit 100: FBI handwritten notes of an interview with Mrs. Foster

Exhibit 101: FBI 302 Report of interview with Mrs. Foster, S.HRG 103-889 p. 1637

Exhibit 102: Testimony of Defendant **Monroe**, S.HRG 103-889 p. 45

Exhibit 103: Fiske Report, p. 9

Exhibit 104: FBI 302 Report of interview with Dr. Watkins, S.HRG 103-889 p. 1676

Exhibit 105: Report of Autopsy, Fiske Report Appendix 8

Exhibit 106: FBI 302 Report of interview with Mrs. Foster, S.HRG 103-889 p. 1633

Exhibit 107: FBI 302 Report of interview with Marsha Scott, S.HRG 103-889 p. 1749

Exhibit 108: FBI 302 Report of interview with Beth Nolan, S.HRG 103-889 p. 1755

Exhibit 109: Fiske Report p. 37

Exhibit 110: U.S. Park Police Report, S.HRG 103-889 p. 2128

Exhibit 111: Gunshot Wound Chart, Autopsy Report, Fiske Report, Appendix 8

Exhibit 112: Affidavit of Reed Irvine

Exhibit 113: FBI Lab Report, S.HRG 103-889 pp. 1925-1926

Exhibit 114: Handwriting analysis report of Reginald E. Alton, Oxford University, Letter from Mr. Alton, Affidavit

of Mr. Alton

Exhibit 115: Handwriting analysis report of Vincent Scalice

Exhibit 116: United States Capitol Police Identification Section Laboratory Examination Results, S.HRG 103-889 pp. 2164-2166

Exhibit 117: Deposition of Peter Simonello, S.HRG 103-889 pp. 677-678

Exhibit 118: Affidavit of Reed Irvine

Affidavit:

1. All exhibits attached hereto, excepting those marked in plaintiff's opposition to defendants' motion for summary judgment with an *asterisk, are photocopied from:

(1) *Report of Independent Counsel in re Vincent W. Foster, Jr.* ("Fiske Report"), public as of June 30, 1994;

(2) *Hearings Relating to Madison Guaranty S&L and the Whitewater Development Corporation - Washington, DC Phase* (redacted) ("S. Hrg. 103-889") Volumes I & II (on the death of Vincent W. Foster, Jr.) & XIV, dated July 29, 1994, available from the Senate Banking Committee document clerk in January, 1995;

(3) *Report of the Committee on Banking, Housing and Urban Affairs United States Senate on the Inquiry into the U.S. Park Police Investigation of the death of White House Deputy Counsel Vincent W. Foster, Jr.,* ("Rept. 103-433"), available from the Senate Banking Committee document clerk in January, 1995;

(4) FBI handwritten notes (redacted) taken by FBI agents assigned to the investigation of regulatory Independent Counsel Robert B. Fiske, Jr., that were used in the preparation of (redacted) typewritten witness statements (known as "FD-302s"), provided pursuant to the Freedom of Information Act (date of request July

12, 1995) on or about March 4, 1996; and

(5) *Investigation of the White House Travel Office Firings and Related Matters* ("House Report 104-849"), September 26, 1996.

Those Exhibits which are *not* part of the official public record in this case are denoted by an *asterisk

I declare under penalty of perjury that the forgoing is true to the best of my information, knowledge and belief.

[6/6/97

/S/
John H. Clarke

Appendix H Affidavit of Plaintiff [docket 45] [Re attachment Excerpt of "Report of Witness Tampering"] Filed: September 15, 1997

AFFIDAVIT

Patrick Knowlton, having personal knowledge of the following, swears under penalty of perjury that the following facts are true:

1. On October 27, 1995 I mentally noted three digits of the license plate that Mr. Ruddy ask me to remember. He wrote down the number and immediately provided it to Ambrose Evans-Pritchard by cell phone. Ambrose later learned the plate was registered to a car owned by Ayman Alouri. The plates were on a different car when I saw it on November 1, 1995.

2. The folowing facts are true:

> Two Arabs came to the door and ruddy recognized them instantly as the driver and the passenger of the white Honda that had trailed them. Knowlton, further back in the shadows, said he recognized the driver at once. To our surprise, the license plates were clearly displayed in the parking lotin front of the houser, but they were attached to a different car...
>
> Excerpt of November 5, 1995 London Sunday Telegraph article, "Death Mystery Plot Thickens."

Date: September 15, 1997. /S/ Patrick J. Knowlton

Appendix I **Appendix to the OIC's interim July 15, 1997, Report on the Death of Vincent W. Foster, Jr., September 23, 1997. Accepted for filing, with the Report on the Death of Vincent W. Foster, Jr., by [docket 64] Order: 3/31/99**

John H. Clarke
1730 K Street, NW
Suite 304
Washington, DC 20006
(202) 332-3030

September 23, 1997

The Honorable David B. Sentelle
The Honorable John C. Butzner
The Honorable Peter T. Fay
UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT
Division 94-1 for the Purpose of
Appointing Independent Counsels

Re: *In re: Madison Guaranty Savings & Loan Association*
Patrick James Knowlton -
Request to include comments and factual information, pursuant to the Ethics in Government Act of 1978, As Amended, to the Report on the Death of Vincent Foster, Jr.

Dear Sirs:

Pursuant to 28 U.S.C. § 594(h)(2), Patrick Knowlton respectfully requests that this letter be appended to Mr. Starr's Report of the Death of Vincent Foster, Jr., "[t]o assure that the report is full and complete and to afford [him] a measure of fairness."[65]

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[65] In re North, 10 F.3rd 831, 835 (D.C. Cir. 1993).

Facts. While heading home in heavy traffic on the George Washington Memorial Parkway, and facing over a two hour commute, Patrick Knowlton pulled into Fort Marcy Park at 4:30 p.m. on July 20th, 1993, to relieve himself. Patrick parked close to the main footpath entrance into the park, between the only two cars in the small parking lot, which were parked just four spaces apart.

To Patrick's left was parked an unoccupied mid-1980s rust-brown four-door Honda sedan with Arkansas tags (closest to the footpath entrance), and on his right was a late model metallic blue-gray sedan, backed into its parking space. A man was seated in the driver's seat of the blue-gray sedan. Immediately after Patrick parked, the man lowered the passenger side electric window and stared at him, menacingly. This unnerved Patrick as he exited his car.

As he started from his car toward the footpath, Patrick heard the blue-gray sedan's door open. Apprehensive, Patrick walked to the sign bordering the footpath entrance to the park and feigned to read its historical information while nonchalantly glancing to his right to see if the man was approaching. He saw the man leaning on the roof of the driver's side of his blue-gray sedan, watching him intently. Patrick then cautiously proceeded 75 feet down the footpath's left fork to the first large tree, in the opposite direction from which Mr. Foster's body was later recovered.

As he relieved himself, Patrick heard the man close his car door. Because the foliage was dense, he couldn't see the parking lot and hoped the man wasn't approaching. As Patrick walked back to the parking lot with a heightened sense of awareness, he scanned the lot but did not see the man. Patrick surmised that the man had either gotten back in his car or perhaps could even be crouching between the brown Honda and Patrick's car preparing to attack him.

In order to maintain his distance from the space between the two cars until he learned the man's whereabouts, Patrick walked directly toward the driver's side door of the brown Honda, and then around the back of it. As Patrick reached the driver's side door of the brown Honda, he looked through the window. He also looked

into the back seat as he walked the length of the car. He saw a dark colored suit jacket draped over the driver's seat, a briefcase on the front passenger's seat, and two bottles of wine cooler on the back seat. As he reached the back of the Honda, Patrick was relieved to see that the man had returned to his own vehicle. The man was still staring fixedly at him.

Of the five things Patrick witnessed at the park ((1) the man and his car, (2) the suit jacket, (3) the briefcase, (4) the wine cooler, and (5) the mid-1980s Arkansas brown Honda), the Honda itself is the most relevant. It was not Mr. Foster's car. When Mr. Foster's body was discovered approximately 70 minutes after Patrick had left the park, Mr. Foster had been dead for well over 70 minutes. Mr. Foster therefore could not have driven to the park in his Honda, as claimed in the government Reports on the death.

The following evening, Patrick saw on the news for the first time that Vincent Foster had been found dead at Fort Marcy Park, so he telephoned the U.S. Park Police and reported what he had seen. Nine months later, FBI Special Agent Larry Monroe interviewed him. Monroe subsequently wrote in his reports of those interviews that Patrick "identified this particular vehicle [Honda] as a 1988-1990...," and that Patrick "reiterated his description of this Honda as a 1988-1990." This information was false and known to be false.[66]

Eighteen months later, in October of 1995, Patrick was provided a copy of his then publicly-available FBI interview reports by a reporter for a London newspaper. He realized for the first time

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[66] Monroe tried for hours to get Patrick to admit that the Foster's 1989 silver-gray Honda "could have been" the car Patrick saw. Patrick steadfastly responded, "No," repeating the description he had provided to the Park Police by telephone. Monroe falsified his interview report, writing that Patrick had "identified" the Honda as a "1988-1990," despite the fact that during his second FBI interview, Patrick had picked out the same color he had seen on the mid-1980s Honda from the "browns" section of the car color panels in the FBI laboratory, and that color corresponded to one available only on 1983 and 1984 Hondas.

that Monroe had falsified his account of the car and other facts he had recounted during his FBI interviews. His true account, along with the contradictory information from his FBI interview reports, was reported in the London newspaper on Sunday, October 22, 1995.

Two days later, on Tuesday, October 24, the paper reached American newsstands. That day, Mr. Starr's office prepared a subpoena summoning Patrick to testify before the Whitewater grand jury in this courthouse on November 1, 1995. Two days after that, Thursday, October 26, FBI agent Russell Bransford served the secret grand jury subpoena.[67]

Beginning that same day he was subpoenaed, and continuing into the following day, Patrick was harassed by at least 25 men. The intimidation began at around 7:20 p.m., when Patrick and his girlfriend, Kathy, walked from his home in the Foggy Bottom neighborhood to the Dupont Circle neighborhood, and back. During that time, eleven or more men walked towards him, or came at him from behind. Each man directed a constant threatening glare into Patrick's eyes.

Most of these incidents happened in a rapid and coordinated fashion, so that before one man departed, another was approaching. It is difficult to convey the cumulative effect on the target of this technique of intimidation. Kathy, a Ph.D. consultant and educator, stated in her affidavit that at one point she had to "struggle to keep from crying"[68] and that she "had never witnessed anything like this before or since. It was intentional, coordinated, intimidating, and extremely unnerving."

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67 Agent Bransford had been detailed to regulatory Independent Counsel Fiske's investigation, where he worked with Agent Monroe. Bransford told Patrick he had been "kept on under Starr."

68 Kathy struggled to maintain her composure when she and Patrick began to cross Connecticut Avenue to escape from the sixth, seventh and eighth men, whereupon they noticed the ninth man standing on the corner of R Street and Connecticut Avenue, awaiting their approach while staring directly at Patrick.

Experts tell us that the technique is known to federal intelligence and investigative agencies, and that its objects were twofold: (i) to intimidate and warn Patrick in connection with his grand jury testimony; and failing that, (ii) to destabilize him and discredit his testimony before the grand jury.

It worked.[69]

Investigations by U.S. Park Police & regulatory Office of Independent Counsel ("OIC") Robert Fiske. The investigation under the auspices of regulatory OIC under Mr. Fiske was little more than an FBI investigation.[70] Publicly-available official federal government records demonstrate that throughout the 16 day U.S. Park Police investigation into the case, FBI participation was significant.[71] Therefore, prior to Mr. Starr's appointment to head the

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69 Prior to Patrick's appearance, OIC prosecutors had been fully apprised by counsel of Patrick's reports of being harassed by 25 or more men. They clearly appeared not to believe Patrick's bizarre account of having been harassed, at one point asking him to *"tell us about the alleged harassment,"* nor did Starr's deputies appear to believe much of anything Patrick had to say.

70 That the Fiske Report is for the most part little more than a summary of an FBI investigation is clear from the following excerpt appearing on page two of the Fiske Report: *"The Federal Bureau of Investigation ('FBI') provided substantial and invaluable support in this investigation. The FBI assigned seven experienced agents to the Independent Counsel's Washington office, all of whom have worked exclusively with this office for approximately the last four months."* When the Senate Committee on Banking, Housing and Urban Affairs conducted its day and a half hearing in 1994, it was not Mr. Fiske who appeared to defend the Fiske Report, but rather FBI agents Larry Monroe and William Colombell, both of whom conducted Patrick's FBI interviews.

71 At his June 30, 1995 deposition, FBI agent Scott Salter testified that on July 21 he and FBI Agent Dennis Condon were summoned to the White House by FBI Agent John Dana: *"called us in my car and told us to go to the southwest gate of the White House and meet him there and that we were to, that we were going to be working on a death investigation involving Mr. Foster's death."* On July 21, FBI Agents met

statutory OIC in August of 1994, the only substantive investigations into the case, with the sole exception of the U.S. Park Police investigation (conducted with FBI participation), were conducted by the FBI.[72] The publicly-available federal government record upon

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with Messrs. Nussbaum, Neuwirth and Sloan to discuss the search of Mr. Foster's office and FBI agents were present the next day during the office search. At a press conference given on August 10, 1993, Deputy Attorney General Philip Heymann said, *"The FBI joined the Park Police in the initial stages of the inquiry into Vince Foster's death... [and] the FBI has been assisting in that investigation..."* Robert Bryant, Special Agent in Charge of the FBI's Washington Metropolitan Field Office said at the press conference, "*We [FBI] followed this case from the time we were notified until we were basically of the opinion, along with Chief Langston's staff, that this was a suicide."* At his 6/30/95 deposition, Agent Salter was handed a memorandum and asked to identify it. He responded, *"it's basically a summary of events from the 21st through the conclusion of, through August 4th or 6th or whatever it was, through the conclusion of the investigation that we did."* Department of Interior Chief of Staff Thomas Collier testified on deposition (6/23/95) that *"the FBI and the Park Police ended up working on this kind of hand in glove."*

Agent Salter in his 6/30/95 deposition explained the FBI's function was to interview witnesses along with the USPP (from 7/20 thru 8/5), *"We were there to assist them in conducting the investigation which meant interviewing co-workers [and] ...then proceed as the investigation, you know, called for."* USSS Agent Paul Imbordino, in response to the question at his 6/22/95 deposition *"Who conducted the interviews?,"* answered *"Park Police and FBI."* During the (7/20 thru 8/5) USPP investigation, FBI agents interviewed over a dozen persons regarding events immediately following Mr. Foster's death.

A U.S. Secret Service memorandum indicates that FBI's active participation included removal of evidence from Mr. Foster's desk. A USSS officer relates in a memorandum to his boss that he was told on July 31 of 1993: (1) by an FBI agent that *"[the agent]... and some other agents (five) were working on the Foster suicide... working... leads on some info they had received..."*; and (2) by another USSS officer "*that the FBI had removed evidence from Mr. Foster's desk..."* The FBI's participation apparently did not end on August 5. At the August 10, 1993 press conference, Mr. Heymann said he had "*received an FBI report this morning...*", four days after the case the was officially closed.

72 There have been no other official investigations. The 1994 Senate Banking committee was precluded by the limited scope of Resolution 229 from independently exploring of the issue of how

which the Fiske Report is based is replete with evidence that the FBI concealed the true facts surrounding Mr. Foster's death.[73]

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or where Mr. Foster died ("whether improper conduct occurred regarding... the Park Service Police investigation into the death..."). Mr. Clinger did not investigate and Senator D'Amato's Committee did not explored these issues.

[73] Much evidence of obstruction of justice by the FBI is documented in Patrick's lawsuit in this District Court (No. 96-2467) for *inter alia*, violation of 42 U.S.C. § 1985(2), *"...Obstructing justice; intimidating... witness..."*: "...(3) The FBI concealed... irregularities... during the U.S. Park Police investigation; (4) ...more than two cars in the parking lot; (5) ...deceptively omitted the fact that Foster's car keys were not found at Fort Marcy Park...; (6)...concealed that Mr. Foster's briefcase vanished from the Honda...; (8)...concealed that an automatic pistol was found in Mr. Foster's hand before the revolver...; (9) The FBI ignored forensic evidence...; (10) The wound... [and] blood... is not consistent with... a point blank shot...; (11) The FBI concealed that... a branch [was] lying across Mr. Foster's body; (12) The FBI ignored that the absence of soil on Mr. Foster's shoes is inconsistent with... to where he was... found; (13)... inconceivable for the glasses to have been thrown or bounced...; (15)...taking medication for depression but he was not; (16)...concealed ...doctor opined... Foster was not depressed; (17) The FBI falsely reported that those close... said he was deeply depressed; (20) The FBI lab reported...'suicide note' [authentic]..., but it was forged." See also attached: Exhibit 1: (i) Map of the cars in the Fort Marcy lot and Patrick's route to and from his car; & (ii) Timeline. Exhibit 2: Map depicting the harassment Patrick suffered. Exhibit 3: The FBI knew that Mrs. Foster could identify only a silver gun, so FBI agents showed her a silver gun, told her it was found in Mr. Foster's hand, and falsely reported that she identified the (black) gun found in Mr. Foster's hand as belonging to Mr. Foster. Exhibit 4: The FBI concealed that Mr. Foster's car was not in the Fort Marcy lot by the time he was dead. Exhibit 5: The FBI concealed the gunshot wound in Mr. Foster's neck by: (i) concealing the contents of the Medical Examiner's Report which states that there was a gunshot wound in Mr. Foster's neck; (ii) falsely reporting that the 35 mm photographs were unclear; (iii) concealing that Polaroid photographs vanished; and (iv) concealing that autopsy x-rays vanished.

The Fiske Report correctly states at page 39 that upon Mr. Foster's death, "the FBI would have had primary investigative jurisdiction if the circumstances fell within... the United States Code Section... [which] makes it a federal crime to... kill... a specified number of persons... appointed by the President... [and that the statute mandates that] violations shall be investigated by the FBI." If Mr. Foster's death is ever ruled a homicide, the FBI will necessarily have violated the law simply by virtue of its having failed to exercise primary jurisdiction. The Fiske Report excuses the FBI's failure to take the case (relegating the investigation ostensibly only to the U.S. Park Police) "based on a preliminary inquiry by the FBI which failed to indicate criminal activity."

The OIC's investigation. The fundamental purposes of our Ethics in Government Act are (1) to ensure that justice has been done and (2) to preserve and promote public confidence in the integrity of the federal government by maintaining the appearance that justice has been done.[74] In light of (1) the FBI's statutory mandate to exercise primary jurisdiction in July of 1993 in the event of foul play, (2) two prior FBI findings of no criminal activity, and (3) evidence of a cover-up by the FBI already in the public domain, the OIC's use of the FBI in this matter undermines both purposes of the Act. No OIC can fulfill its mandate to preserve and protect the appearance of justice having been done when its investigation employs the very agency it is designed to be independent from, the Justice Department.[75]

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74 See 139 CONG. REC. S15846-01, S15847-01 & S15850-01 (daily ed, Nov. 17, 1993), statement of Sen. Cohen: "[W]here an investigation has been conducted by the Justice Department... questions have remained. They say, "Well, was it really an independent investigation or was it a cover-up, a whitewash?"... The law, however, serves two ends, both equally important in our democratic society. One is that justice be done, and the other is that it appear to be done." See also (daily ed, Nov. 17, 1993), statement of Sen. Levin: "Here is what the American Bar Association said in its letter of November 17. 'As noted above, the principle underlying statute is that an independent counsel may be needed when there may be a conflict of interest in having the Department of Justice carry out a particular investigation.."

75 Under the Act, the OIC's use of the FBI is free, tempting the OIC

Upon review of those excerpts of the Report provided by the OIC, it is manifest that the Report omits the information Patrick provided which refutes the FBI's repeated official conclusion of suicide in the park. Even though our review is limited by the fact that we were provided only the passages reprinted below and so the context is unclear, it is apparent that the Report also omits evidence Patrick provided which indicates that the FBI obstructed justice in this matter.

For example, the Report's first reference notes that at 4:30 p.m., Patrick saw in the Fort Marcy lot a rust-brown Honda with Arkansas license plates. Although this information is correct, it deceptively omits that Patrick is certain that this older car was not Mr. Foster's 1989 silver-gray colored car. Forensic evidence strongly indicates that Mr. Foster was dead by the time Patrick was in the park. Therefore, Mr. Foster could not have driven to the park in his Honda.[76]

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to create a microcosm of the DOJ. (See Act of Dec. 15th 1987, Pub. L. No. 100-191, 1987 U.S.C.C.A.N. (101 Stat. 1293) p. 2172: "Congress intended the Justice Department to provide independent counsels with the same assistance it provides to its other high-priority, federal criminal cases... federal agencies are instruc- ted to discontinue... requiring reimbursement agreements..."

76 See Exhibit 4. A USPP report notes that the autopsy doctor estimated that Mr. Foster died "2-3 hours" after having eaten "large meal" "which might have been meat and potatoes." Several people reported that Mr. Foster had finished his lunch of a cheeseburger and French fries by 1:00 p.m., therefore putting the time of death between 3:00 and 4:00 p.m. Also, the paramedic in his Incident Report estimates that based upon the "pooling of blood in the extremities," Mr. Foster had been dead "2-4 hrs" at 6:10 p.m., putting the time of death between approximately 2:00 and 4:00 p.m. Because Patrick saw an Arkansas car at 4:30 p.m. which was not Mr. Foster's, parked in the same space where Mr. Foster's car was later found, Mr. Foster could not have driven to the park. Also, the descriptions of this older car (the only car in the lot) provided by the two other civilians who arrived at the park 40-55 minutes after Patrick left generally fits the description of the car Patrick saw, not Mr. Foster's car.

Page 21 of the OIC's Report:
Another citizen (C2) drove his rental car into Fort Marcy parking lot at approximately 4:30 p.m. While there, C2 saw one unoccupied car which he describes as a "Rust brown colored car with Arkansas license plates."[35] C2 also saw another nearby car; that was occupied by a man who exited his car as C2 exited his own car.[36] C2 described this man as having "as look like he had a — an agenda, although everything I based my observation of this guy, was from the gut," "more than anything else.:" C2 and the man did not speak to one another.

[35] OIC 11/1/95 at 22, 28
[36] Id at 25
[37] Id at 27, 62
[38] Id at 61-62

This first passage also notes that the other car in the lot was occupied by a man who exited his car as Patrick exited his own car (the man exited his car after Patrick walked toward the park). The excerpt omits any other details of the man's behavior. Mr. Foster's body was located about 700 feet away from the area where: (1) the man's car was backed in to its parking spot giving him full view of the driveway leading into the lot; (2) the man gave Patrick a menacing stare; and (3) the man returned to his own car only when Patrick chose to walk in the opposite direction from where Mr. Foster's body was found about 70 minutes later.

The Report goes on at page 22 to tell us that the "man had reentered his car by the time" Patrick had "returned to the parking lot," and at 69 that he saw "a man in a car next to him." We do not know of the context in which these passages appear.

Page 22 of the OIC's Report:
went into the park to urinate, and the other man had reentered his car by the time C2 returned to the parking lot.[39] C2 then left the park in his car.[40]

[39] Id at 38
[40] Id at 61-62

Page 69 of the OIC's Report:

During the afternoon, before Park Police and FCFRD personnel were called to the scene at Fort Marcy Park, C2 saw a man in a car next to him;

Twenty pages later, the Report notes that Patrick "saw a briefcase" in the Arkansas car along with a "jacket... [and two] wine coolers." This statement again deceptively implies that the car was Mr. Foster's even though Mr. Foster's car reportedly did not contain wine coolers or a briefcase.

Page 89 of the OIC's Report:
C2 testified that he saw a briefcase — as well as wine coolers in a car with Arkansas plates that was parked in the parking lot. He stated: "I looked and saw the briefcase and saw the jacket, saw the wine coolers it was two of them. I remember exactly how they were laying in the back seat of the car."[274]

[274] C2 OIC, 11/1/95, at 34

This final passage omits that Patrick testified (and repeatedly told the FBI) exactly where these items were in the rust-brown Honda. The suit jacket Patrick saw in that car was draped over the back of the driver's seat. The suit jacket later found in Mr. Foster's car was folded and lying on the front passenger's seat.

Moreover, the Report's purported reliance on grand jury testimony[77] is an attempt to give the Report more credibility.

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[77] Patrick was not interviewed by Mr. Starr's FBI agents about events at Fort Marcy Park until December 1, a month after he testified. When Patrick testified on November 1, 1995, one OIC prosecutor failed to introduced himself, sat behind Patrick and passed notes to the other prosecutor who questioned him while resting his head on his hand, as if Patrick's testimony was little more than an annoyance. During the two and a half hours of testimony, Patrick

Indeed, the catalyst for Patrick's grand jury testimony was the appearance in U.S. newsstands of the October 22nd issue of the *London Sunday Telegraph,* in which Ambrose Evans-Pritchard described Patrick's reaction when he was shown the FBI report of his interview with two FBI agents detailed to Mr. Fiske's probe. It was the first time Patrick had seen the report of the interview, which had been conducted eighteen months earlier. Pritchard wrote that Patrick "was stunned." Referring to the FBI's assertion that Patrick stated he "would be unable to recognize the man" he had seen at the park, Patrick is quoted as saying "That's an outright lie."

Pritchard's article also states:

"They showed him a photograph of [Foster's] Honda... 'They went over it about 20 times, telling me that this was Foster's car,' said Knowlton. 'But I was quite adamant about it. I saw what I saw, and I wasn't going to change my story'... Starr's investigators have never talked to Knowlton. The federal grand jury has never summoned him to give sworn testimony."

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was asked about what occurred at Fort Marcy Park and his prior statements to the FBI for about an hour. During the balance of the time, the prosecutor insinuated that Patrick was a liar, a homosexual, and a publicity hound. He was repeatedly asked: (1) to explain his relationship with the two men who lived in his Etlan, Virginia residence (a joint real estate venture); and (2) about his involvement with the press or anyone on Capitol Hill. He was also asked: (1) about the "alleged misquotes" in the FBI reports of his statements; (2) to describe the "alleged harassment;" (3) whether the man in the park passed him a note, pointed a gun at him, or touched him; (4) how many times he had been to Fort Marcy Park alone (the park is a reputed homosexual pick-up spot - unbeknownst to Patrick at the time); (5) why he called the police and didn't wait for the police to call him; and (6) sarcastically if he came forward because he is a "good citizen" and a "good Samaritan." When Patrick asked who had sent Agent Bransford to his home on October 30, 1995 (Bransford further intimidated him), the prosecutor seated behind him spoke for the first time, "We sent Bransford."

On October 24, the same day that this newspaper reached U.S. newsstands, the OIC prepared a subpoena summoning Patrick to testify before the Whitewater grand jury. The secret grand jury subpoena was served two days later by an FBI agent who was formerly detailed to Mr. Fiske's probe, whereupon Patrick was harassed and intimidated by 25 or more men -- during which time the FBI ignored his repeated pleas for help. The Report omits all of this, even though Patrick submitted a report detailing the harassment to the OIC in March of 1996, which included reports of a polygraph examination, a psychiatric examination, witnesses' affidavits, photographs of two members of the harassment team and the names and addresses of two others.

Conclusion. Because Patrick did not heed the warning regarding his grand jury testimony and continued to tell the truth, including his account of the *bizarre* harassment he suffered, his testimony was discredited. Patrick was harassed in an effort to make him look unbalanced or dishonest. Since that time, he has been defamed by numerous individuals, most of whom are journalists. He has been attacked as a delusional conspiracy theorist, a homosexual, and as an outright liar. Patrick has been fighting to reestablish his credibility for the past two years. Patrick did nothing to deserve the outrageous treatment he received at the hands of the OIC and its FBI agents. He did nothing to deserve being yanked into this FBI debacle, having his life turned upside down, and having to endure this fight for his reputation. Patrick's only "crime" was reporting to the authorities what he had seen at Fort Marcy Park, consistent with his understanding of his duties as a good citizen.

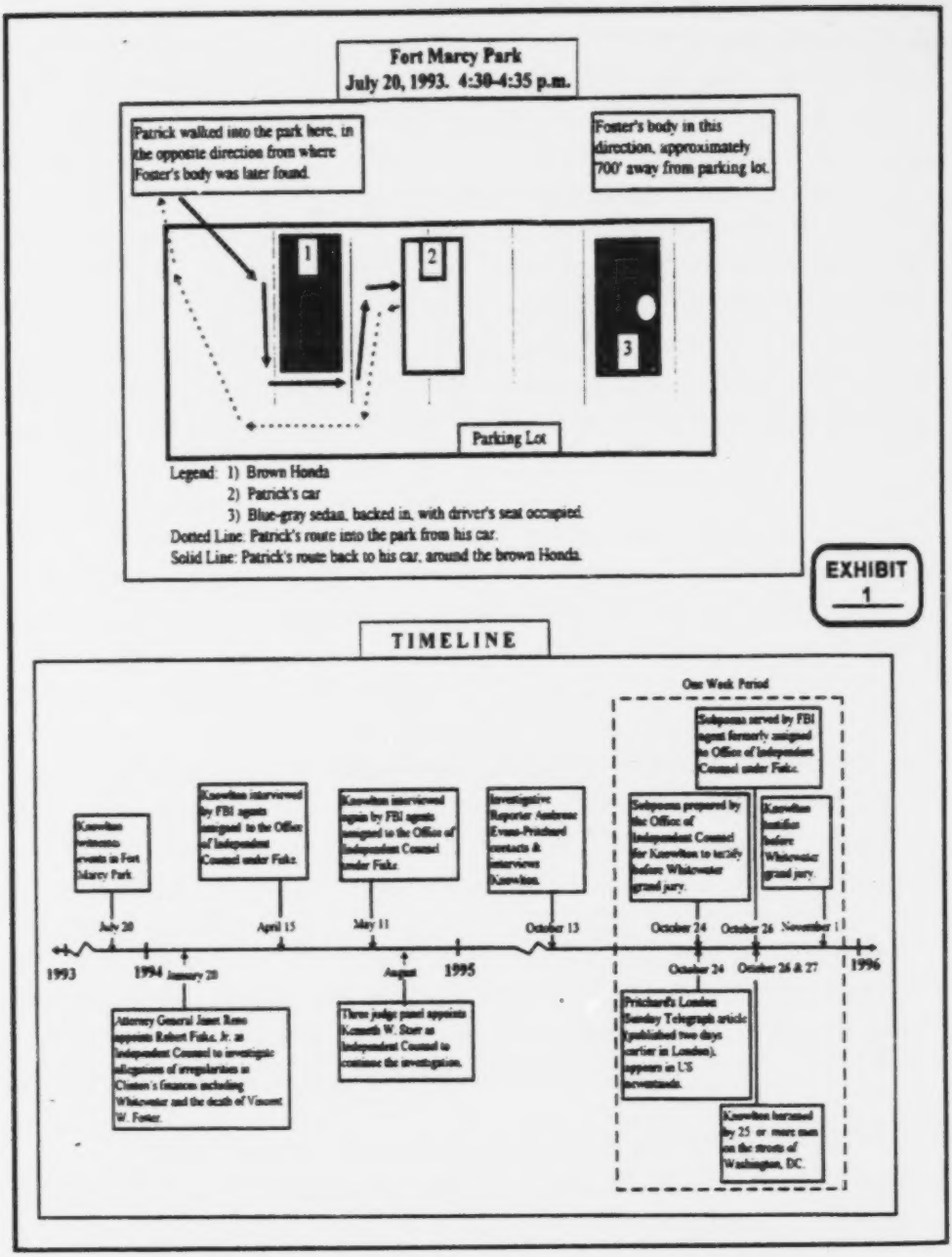
Patrick respectfully asks that the Division of the Court append this letter to the Independent Counsel's Report on the Death of Vincent Foster, Jr. to afford him a measure of fairness. A denial of this relief would augment the appearance of justice having not been done and would further frustrate legislative intent. Patrick should not have to go through the rest of his life labeled as a liar or some kind of nut. He has no remedy at law for injury to his reputation causally related to the subject investigations. Patrick

Knowlton merely seeks to establish that he is telling the truth and that he is mentally stable.

Respectfully submitted,

/S/

John H. Clarke



BEST AVAILAB

TEAM OF MEN WHO HARASSED PATRICK, NUMBERED IN THE LOCATION AND ORDER IN WHICH THEY WERE FIRST OBSERVED

During the course of the two days beginning the day FBI Agent Bransford served the secret grand jury subpoena, Patrick suffered the cumulative effect of intimidation by at least 25 men. They acted in a rapid and coordinated fashion, obviously working in tandem, employing the same *modus operandi* of continuously staring and following. Of the first 25 men, 23 appeared within five minutes of his predecessor; 13 approached before his predecessor had departed.

It is difficult to convey the cumulative effect on the target of this technique of intimidation. Patrick's girlfriend, Kathy, a Ph.D. consultant and educator, accompanied Patrick on the first day. She wrote in her affidavit that at one point she had to "struggle to keep from crying" and that she had "never witnessed anything like this before or since. It was intentional, coordinated, intimidating, and extremely unnerving."

Experts tell us that the technique is known to federal intelligence and investigative agencies, and that its objects were twofold: (i) to intimidate and warn Patrick in connection with his grand jury testimony; and failing that, (ii) to destabilize him and discredit his testimony before the grand jury.

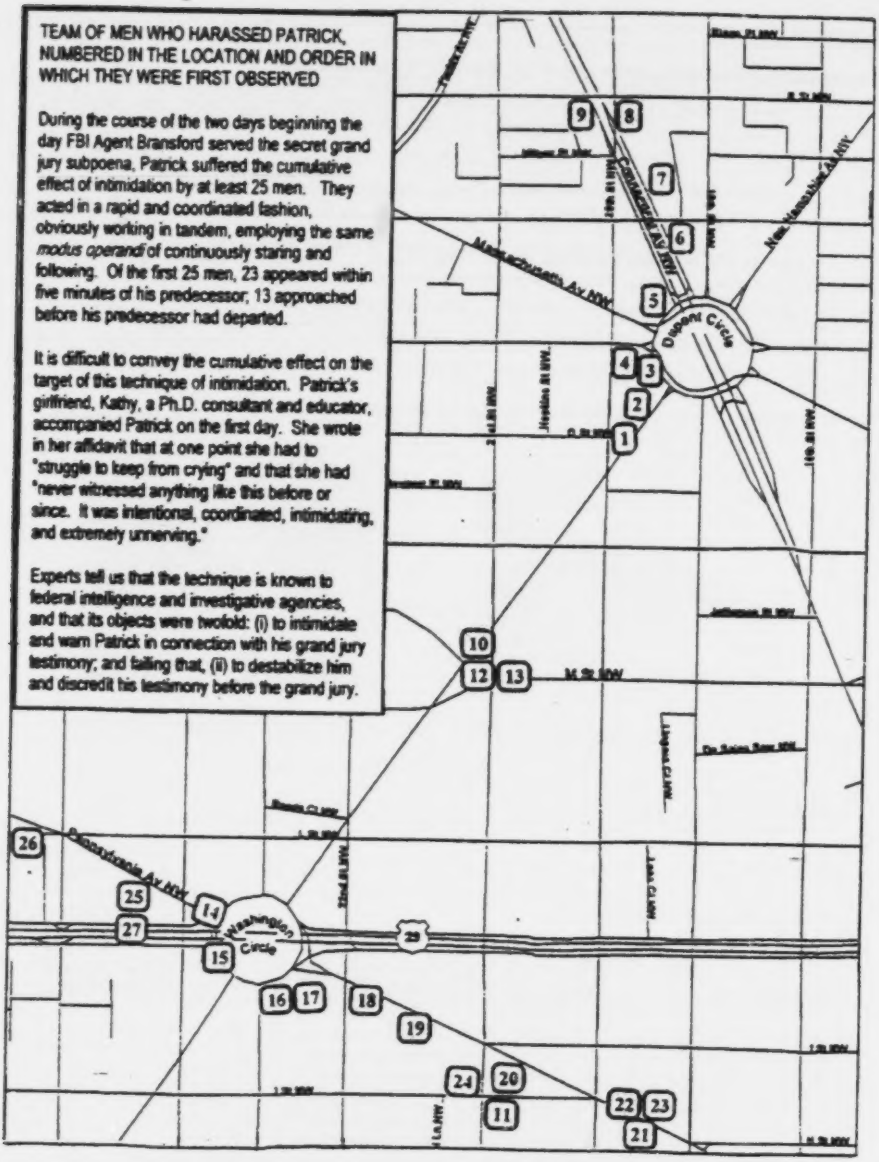


EXHIBIT 2

BLE COPY

US PARK POLICE REPORT. GUN FOUND IN MR. FOSTER'S HAND WAS BLACK.

UNITED STATES PARK POLICE

MOBILE CRIME LAB REPORT SUPPLEMENT

OFFENSE/INCIDENT: Death Investigation CASE NO: [illegible]

INCIDENT LOCATION: Ft. Marcy DATE: 7-20-93

were at his sides and the victim had his right hand on a black revolver. The right thumb

ID TECHNICIAN [illegible] DATE 7-26-93 SUPERVISOR [illegible] DATE 7/26/93

PHOTOGRAPHS OF BLACK GUN FOUND IN MR. FOSTER'S HAND AT FORT MARCY PARK.





US PARK POLICE HANDWRITTEN INTERVIEW NOTES. MRS. FOSTER UNABLE TO IDENTIFY BLACK GUN.

Not the gun she thought it must be. Silver, six-gun, large barrel.

Not the gun she thought it must be. Silver, six-gun, large barrel.

EXHIBIT 3

FBI INTERVIEW REPORT. FBI SHOWED MRS. FOSTER "SILVER" GUN "FOUND" AT FMP. SHE IDENTIFIED IT.

Continuation of FD-302 of ELIZABETH BRADEN FOSTER, On 5/9/94, Page 14

LISA FOSTER then examined a revolver which had been brought to the interview by the interviewing agents. FOSTER examined the revolver, which had also been found at Fort Marcy Park on July 20, 1993, and stated that she believed it may be a gun which she formerly saw in her residence in Little Rock, Arkansas.

may be the silver gun which she brought up with her other belongings when she permanently moved to Washington. LISA FOSTER

USPP REPORT. INTERVIEW BY USPP & FBI OF ASSISTANT IN WHITE HOUSE COUNSEL'S OFFICE: MR. FOSTER ATE LUNCH OF "CHEESEBURGER" AND "FRENCH FRIES."

United States Park Police

Death Investigation

The first conversation she had with him was about lunch around 1200-1230 hours. He said he would eat at his desk. He ordered a medium rare cheeseburger, french fries and coke. She and Linda Tripp went to the cafeteria and ordered his lunch. She

FBI INTERVIEW REPORT. EXECUTIVE ASSISTANT IN WHITE HOUSE COUNSEL'S OFFICE: MR. FOSTER LEFT OFFICE SHORTLY AFTER 1:00 PM AFTER HE ATE LUNCH.

Continuation of FD-302 of Linda A. Tripp, On 4/13/94, Page 4

from work. When he left the office at shortly after 1:00PM he did not have anything with him. TRIPP did not know where he was going and it was not appropriate for her to ask him. He did not have any appointments noted on his office calendars or that anybody knew about.

USPP REPORT. DOCTOR WHO PERFORMED AUTOPSY SAID EATEN "MEAT AND POTATOES" "2-3 HOURS PRIOR TO DEATH."

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

USPP Ft. Story

Dr. Dyer stated that it appeared that the victim had eaten a "large" meal which he believed to have occurred within 2-3 hours prior to death. He was unable to state positively what type of food was consumed but stated that it might have been meat and potatoes.

PARAMEDIC'S INCIDENT REPORT. AT 6:10 PM "HAD BEEN DEAD APPROX 2-4 HRS."

This is certified a true copy of the actual field incident report in possession of the Fairfax County Fire and Rescue Department
Signed
Date 7-19-94

EXHIBIT 4 Page 1 of 2 pages

	NARRATIVE REPORT
	INCIDENT # R32011315 UNIT M01 SUPP02 SITF 801 07/20/93 HAD SET IN. POOLING OF BLOOD IN THE EXTEMITIES. PT HAD BEEN DEAD APPROX 2-4 HRS. PT HAD A WEAPON IN HIS RIGHTHAND

FBI REPORTS OF INTERVIEWS WITH PATRICK AND TWO OTHER CIVILIAN PARK WITNESSES

PATRICK ARRIVED 4:30 PM. CAR "BROWN... HONDA WITH ARKANSAS PLATE"

parking area, he immediately noticed an unoccupied vehicle parked front end in facing the park in one of the first parking slots on the left-hand side. He identified this particular vehicle as a 1988-1990 brown or rusty brown in color Honda with Arkansas plates. He stated that he could not remember whether this vehicle was a two door or four door sedan and outside of the

MALE SAYS HE AND FEMALE ARRIVED AROUND 5:00 P.M. CAR "BROWNISH."

They arrived at Fort Marcy Park at approximately 5:00 p.m. As they drove into the parking lot, he observed a vehicle, possibly a small station wagon or "hatchback" model, brownish in color, parked to his left. The vehicle was parked close to the path leading up to Fort Marcy, with the front of the car pulled

FEMALE SAYS THEY ARRIVED BETWEEN 5:15 & 5:30 PM. CAR "MID-1980s."

Marcy Park in her white Nissan , arriving at Fort Marcy Park sometime between 5:15 and 5:30 p.m. To the best of her recollection, she maintained that upon entering the parking lot at Fort Marcy Park, she noted that the only vehicle in the parking area was a relatively old (mid-1980's) Honda, possibly a Honda Accord, either tan or dark in color, parked close to the entry of the parking lot, adjacent to a path leading to the Northern section of the park. believed that this particular Honda was parked with the front of the vehicle facing the park area and to the best of her recollection, believes a

SWORN TESTIMONY OF PATRICK KNOWLTON (ARRIVED FMP 4:30 PM)

REGARDING: VINCENT FOSTER. SWORN STATEMENT OF PATRICK KNOWLTON
PRESENT: CONGRESSMAN DAN BURTON KEVIN BINGER JOHN CLARKE

14	THERE WAS TWO VEHICLES IN THE PARKING LOT -- ONE WAS A
15	BROWN, RUST-BROWN COLORED HONDA WITH ARKANSAS LICENSE
16	PLATES. IT WAS AN OLDER VEHICLE.
19	SUGGESTED TO ME THAT THAT WAS THE AGE OF IT, AND, WHEN HE
20	SHOWED ME THE PICTURES OF A CAR THAT WAS AN '88 OR A '90, I
21	SAID, NO. IT IS, OBVIOUSLY, AN OLDER CAR. THE CAR THAT
22	YOU ARE SHOWING ME THE PICTURE OF IS TOO NEW.

EXHIBIT
4
Page 2 of 2 pages

REPORT... BY MEDICAL EXAMINER. "*NARRATIVE SUMMARY...*" STATES "*...GUNSHOT WOUND MOUTH TO NECK...*" DISCOVERED JULY 17, 1997 AT NATIONAL ARCHIVES.

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF HEALTH
OFFICE OF THE CHIEF MEDICAL EXAMINER
NORTHERN VIRGINIA DISTRICT
9797 GRAVOCH ROAD
SUITE 100
FAIRFAX, VA 22030-1729
PHONE (703) 764-4643

Resident ID
Non-resident ID Washington D.C.
Jan 15,1945

REPORT OF INVESTIGATION BY MEDICAL EXAMINER

DECEDENT Vincent W alker FOSTER Jr AGE: 48 RACE: Cauc SEX: male

NARRATIVE SUMMARY OF CIRCUMSTANCES SURROUNDING DEATH:

JULY 20,1993 After anonymous call was received at 18:04 hours US Park Police officers found 48 yrs Caucasian male with self-inflicted gunshot wound mouth to neck on a foot path in Marcey Park .His car was parked in the parking lot but no note was found.

MEDICAL HISTORY Unknown

I hereby declare that after receiving notice of the death described herein I took charge of the body and made inquiries regarding the cause and manner of death in accordance with the Code of Virginia as amended; and that the information contained herein regarding such death is correct to the best of my knowledge and belief.

July 20,1993 Fairfax County
Date City or County of Appointment Signature of Medical Examiner

DEPOSITION OF PARAMEDIC. SAW BULLET HOLE IN NECK.

DEPOSITION OF RICHARD M. ARTHUR
IN RE: S. RES. 229

THURSDAY, JULY 14, 1994

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Washington, DC.

Deposition of RICHARD M. ARTHUR, called for exam-

19 Q Where was the blood coming from?
20 A To me, it looked like there was a bullet hole
21 right here.
22 Q In the neck?

24

1 A Yes, right around the jawline.

EXHIBIT 5
Page 1 of 4 pages

FISKE REPORT. DISMISSES BULLET WOUND IN NECK BASED ON PHOTOGRAPHS AND AUTOPSY.

Report of the
Independent Counsel

Arthur believed he saw a bullet wound in the right side of Foster's neck. These wounds did not exist. The autopsy results, the photographs taken at the scene, and the observations made by Park Police investigators conclusively show that there were no such wounds.

FBI LABORATORY REPORT. EFFORTS TO ENHANCE 35MM PHOTOGRAPHS TO MAXIMUM IMAGE PRODUCED LIMITED DETAIL.

FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D. C. 20535

PHOTOGRAPHIC:

The 35mm color negatives (Q32) were examined to locate frames for photographic enhancement. The selected frames (5, 6, 7, 8, 9, 10, 17, 18) were printed using Kodak Ultra print paper to produce maximum image detail. Due to the negatives having been underexposed during the photographic process, limited detail could be extracted from each of the selected frames.

USPP WHO TOOK 35 MM PHOTOGRAPHS TESTIFIED THESE PHOTOGRAPHS "LOOKED GOOD."

DEPOSITION OF PETER J. SIMONELLO

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Washington, DC.

Deposition of PETER J. SIMONELLO, called for exam-

Q Have you subsequently become aware of any information that would contradict anything in your report?
A The only thing I read in there that I was wondering about is they said my 35 millimeter roll of film was overexposed and they weren't able to get any prints from it. But I recall that I was in the office there when they took a statement from me that day. I guess that was that date in May, and they showed me some 8-by-10 color photographs, and they indicated they were able to, in fact, enhance the photographs which I took, and I saw several of those 8-by-10s and I commented on what a good job they did because they looked good to me. They didn't look underexposed. They were able to enhance them and in the report they indicate they were not able to get anything from them.

EXHIBIT 6 Page 2 of 4 pages

DEPOSITION OF USPP WHO TOOK POLAROID PHOTOGRAPHS. "BACKSIDE" PHOTOS VANISHED.

DEPOSITION OF JOHN C. BOLLA

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Washington, DC.

Deposition of JOHN C. BOLLA, called for examination

A I think I had more than one packet. I don't think I took more than one. There's only 10 in a pack. I may have reloaded because I know I took some on the backside. I don't have those photos. I put them in a jacket. God knows how many people looked through those, and I don't know what happened.

FBI INTERVIEW REPORT [illegible]P FERSTL TOOK APPROXIMAT[illegible] POLAROID PHOTOGRAPHS.

[illegible] FRANK JOSEPH FERSTL	On 8/3/94 Page 3
lot. FERSTL advised that he also took several polaroid photos of the crime scene, adding that he is not sure if he did the photography or taping first. He stated that to the best of his recollection, on returning a second time to the death scene, the body appeared to be in the identical position it was when he first observed it.	
FERSTL stated that to the best of his recollection, he took approximately seven photos; he cannot recall if he initialed	

FBI REPORT FOR RECEIPT OF POLAROIDS: FIRST SET OF FIVE POLAROIDS OF BODY SITE TAKEN BY USPP EDWARDS; SECOND SET OF FIVE POLAROIDS OF CAR TAKEN BY USPP BRAUN; THIRD SET OF EIGHT POLAROIDS OF BODY SITE TAKEN BY USPP ROLLA.

ALL OF FERSTL'S "APPROXIMATELY SEVEN" POLAROIDS VANISHED, AND ROLLA'S "BACKSIDE" POLAROIDS VANISHED -- ONLY NINE USABLE PHOTOGRAPHS OF BODY OFFICIALLY EXIST (SEVEN OF BODY AND TWO OF FACE).

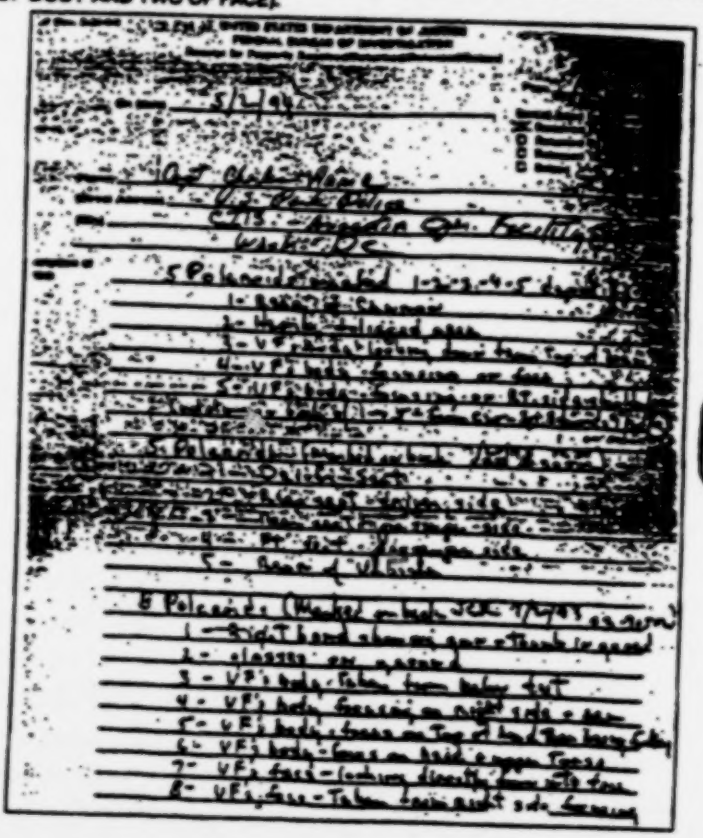


EXHIBIT 6
Page 3 of 4 pages

AUTOPSY REPORT. X-RAYS TAKEN:

OFFICE OF THE CHIEF MEDICAL EXAMINER

REPORT OF AUTOPSY

Photographs made: Yes ✓ No ____ X-rays made: Yes ✓ No ____

Examined by: [signature] Date: 3-21-93

US PARK POLICE REPORT. X-RAYS READABLE:

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

SCW Ft. Davey

0 7 1 2 0 9 2 9 1 3 0 3 H 4 4 2

head. Dr. [illegible] that X-rays indicated that there was no evidence of bullet fragments in the head.

AFFIDAVIT. X-RAY MACHINE FUNCTIONING PROPERLY:

AFFIDAVIT

I, I am Reed J. Irvine, Chairman of Accuracy in Media, Inc.,

Virginia Beach, Va. I succeeded in located the technician who was responsible for installing and servicing this machine, Mr. Jesse Poor. Mr. Poor denied that there had been any trouble with the machine, which he had installed in June 1993. He checked his records and reported that the machine was installed on June 15, 1993 and that the first service call was on Oct. 29, 1993 to make an adjustment to make the pictures darker.

FISKE REPORT. X-RAY MACHINE INOPERABLE SO NO X-RAYS TAKEN:

Report of the
Independent Counsel

* The office X-ray machine was inoperable at the time of Foster's autopsy, and as a result no X-rays were taken.

EXHIBIT 8 Page 4 of 4 pages

Appendix J **Record of defendants' proffers**

Appendix J-1 **FBI 302 Report of April 15, 1994, interview of Patrick Knowlton Filed: May 2, 1997.**
&
FBI 302 Report of May 11, 1994, interview of Patrick Knowlton [docket 18]
Filed: May 2, 1997

[emphasis added]

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/18/94

[redaction] was interviewed at the Office of the Independent Counsel, 1001 Pennsylvania Avenue, Washington, D.C. was advised as to the identity of the interviewing agents and informed of the nature of the inquiry. He then provided the following information: [redaction]

advised that on July 20, 1993, **he terminated work on a construction site in Chevy Chase, Maryland and traveled North on the George Washington Memorial Parkway** enroute to his residence in [redaction]
. **He stated that at approximately 4:15 pm** while approaching Fort Marcy Park he had to urinate and **entered Fort Marcy Park** in order to relieve himself. He indicated that he was somewhat familiar with Fort Marcy Park since in, 1991, he had toured this particular park in the company of his girlfriend. He stated that upon entering the parking area, he immediately noticed an unoccupied **vehicle parked front end in facing the park in one of the first parking slots on the left-hand side. He identified this particular vehicle as a 1988 – 1990** brown or rusty brown in color Honda with Arkansas plates. He stated that **he could not remember whether this vehicle was a two door or four-door sedan** and outside of the letter H predominantly displayed on the trunk of the vehicle could furnish no other identifying information regarding this vehicle. [redaction]

however, was positive that this vehicle had Arkansas plates since the Arkansas designation is easily identifiable. [redaction]

further indicated that **a second vehicle, located** approximately three spaces past the above mentioned Honda, was observed back into a parking space **in the immediate area of a path leading to the northern section of the park. This vehicle was described** by [redaction]

as a Japanese make vehicle, metallic blue in color**, with Virginia license plates** and in his opinion was considerable newer than the previously described Honda. [redaction]

described the occupant of this vehicle as a male in his late twenties, probably Mexican or Cuban, with dark

Investigation on 4/15/94 at Washington, D.C. File # 29-LR-35063 SUB A
By_____ Date dictated 4/19//94

complexion, dark brown or black curly hair worn short, 5'10" to 5'11" in height. [redaction]

stated that he specifically remembers this individual since when he, departed his vehicle, this male exited his vehicle and was closely watching him as he proceeded into the park to urinate. He further mentioned that this male was staring at him making him, [redaction]

feel extremely nervous and uneasy. **He could not further identify this particular individual nor his attire and stated that he would be unable to recognize him in the future.**

[redaction] continued by stating **that he proceeded into the park for approximately 200 feet** where he relieved himself to the right of a t rail. He then returned to his vehicle, which was a rental vehicle from Thrifty Rental, and once **again observed the occupant of the second vehicle now inside the vehicle with the driver's window slightly down continuing to stare at him.**

[redaction] stated, however, that upon returning to the parking lot, **he walked behind the brown Honda and peered inside the vehicle** where he observed a dark-blue jacket draped over the driver's seat. He further stated that he observed in this Honda a leather briefcase or leather folder on the passenger side seat. He specifically recalls that this particular briefcase or folder was darker than the interior of the vehicle which, according to his recollection, was beige or light in color. [redaction] Further added that he specifically remembers being surprised that anyone would leave a briefcase or folder on the front seat of an unattended vehicle. **He could furnish no other descriptive data regarding this vehicle or for that mater the contents located within the vehicle.**

[redaction] advised that, in his opinion, he was in the Fort Marcy Park no more than five minutes and remembers **exiting Fort Marcy Park at approximately 4:30 pm** and proceeding North on the George Washington Memorial parkway. **He stated he specifically remembers the time being 4:30 pm** since the rental vehicle he was driving had a relatively large clock on the dashboard. He advised that upon exiting Fort Marcy Park he did view in the right hand lane of the North bound George Washington parkway a Ford passenger van which was slowing down and possibly could have made a right hand turn into Fort March park. Mr. [redaction]

[redaction] was unable to furnish any description of the occupant of this van nor any other identifying date regarding this vehicle.

[redaction] was shown a series of photographs depicting Mr. Vincent Foster's four door Honda, Arkansas license

29-LR-35063 SUB A
Continuation of FD-402 of _____ Date dictated 4/15//94

plates. [redaction] After closely scrutinizing the photographs he stated that while he was positive this vehicle had Arkansas license plates, as depicted in the photographs, it was his opinion that this vehicle was either brown or rust brown in color and appeared to be an older vehicle than the photographs he was exhibited. In fact, Mr.
[redaction] stated that after viewing television reports the evening of July 20, 1993 in which Mr. Foster was identified as a White House lawyer, he remembered thinking to himself that due to the age of this vehicle it was not, in his opinion, a vehicle typically driven by a lawyer. Based on these observations, **he called the U.S. Park Police around midnight on July 20, 1993** and within the next day or two telephonically provided his observations to a U.S. Park Police Officer.

[redaction] **reiterated his description of this Honda as a 1988 – 1990 Honda sedan with Arkansas plates but could furnish no information relative to whether it was a two or four door vehicle nor furnish any additional information relative to any distinguishing marks, dents, or external stickers on the vehicle.** Additionally, he advised that with the exception of the two vehicles previously identified and the occupant of the metallic blue vehicle, he did not observe any other vehicles or individuals in Fort March Park and denied hearing any unusual noises or sounds.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/12/94

was interviewed at the Office of the Independent Counsel, 1001 Pennsylvania Avenue, Washington, D.C. [redaction] was advised as to the identity of the interviewing agent and specifically informed of the nature of the inquiry. He then provided the following information: [redaction]

was informed that in light of additional information being obtained by interviewing agent relative to the description of Mr. Vincent Foster's 1989 Honda Accord, that it was necessary to reinterview him relative to his observations at Fort Marcy Park, Virginia on July 20, 1993. [redaction] maintained that, to the best of his recollection, the observations previously furnished to interviewing agents on April 15, 1994 were still consistent with his observations of the two vehicles **he observed at approximately 4:15 pm on July 20, 1993 at Fort Marcy Park..**

In attempt to further clarify [redaction] observations on that day, **he was informed that the official note taker for the U.S. Park Police in describing Mr. Foster's four door Honda, Arkansas license plates [redaction] , notes that the vehicle examined at the Fort Marcy parking lot on July 20, 1993, was "gray/brown" in color. [redaction] was also advised that the second USPP officer to arrive at the death scene also described Mr. Vincent Foster's vehicle, as, "a gray/brown Nissan four door with Arkansas registration [redaction]**

parked in the 4th space from the front of the parking lot." Additionally Mr. [redaction]

was informed that a witness who was in the Fort Marcy parking lot at approximately 5:45 pm on July 20, 1993, described what eventually turned out to be Mr. Foster's Honda vehicle as a "Japanese model, brown in color." In addition to furnishing this background information to [redaction] **, he was also exhibited a 35mm photograph** (partially

underexposed) which was taken by Officer Peter Simonello, USPP at the Fort Marcy parking lot on July 20, 1993. The photograph **of Mr. Foster's Honda** when viewed next to a light colored USPP vehicle appears extremely dark in

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Investigation on 5/11/94 at Washington, D.C. File # 29-LR-35063
By_____ Date dictated 5/11//94

color.

After being informed of the above cited information to include viewing the35mm photograph, [redaction] still believes that the vehicle he observed during the period of time he was in Fort Marcy Park on July 20, 1993 was brown in color and still believes looked "older" than Mr. Foster's 1989 four door Honda Accord. In a further effort to clarify this situation, Mr. [redaction] [redaction] in the company of the interviewing agents physically viewed a series of automobile color panels at the FBI laboratory, Hoover Building, Washington, D.C. **During this review of automobile panels, he identified panels numbered 3499 and 3500 as closely approximating the color of the vehicle he observed at Fort Marcy Park.** During this **review of** color panels as well as **a brochure of Honda vehicles** stated that he definitely believes that the vehicle in he observed was a four door Honda Accord. The vehicle in his opinion, appeared to be shorter in length or more compact than the photographs of Mr. Foster's 1989 Honda and further believed that the color of the vehicle had a flat finish and was not glossy or clear coated as represented in the [redaction] photographs of Mr. Foster's 1989 Honda. However, did indicate that while he still believes the vehicle had an Arkansas license plate, he doesn't recall that the plate he observed had as many letters preceeding the numbers as depicted on Arkansas plate on Mr. Foster's 1989 Honda.
[redaction] **reiterated his previous observations, that this vehicle was** unoccupied and was parked front end in facing

the park **in one of the first parking slots on the left hand side of the Fort Marcy parking lot.** He reemphasized the fact that, in his opinion, this vehicle had an Arkansas plate and that he observed a dark blue jacket draped over the driver's seat of this vehicle. **stated that all other information furnished by him to interviewing agents on 4/15/94 were consistent with his recollection of what he personally observed during the period of time he was at Fort Marcy Park on July 20, 1993**

Appendix J-2:

Affidavit of Ayman Alouri, September 2, 1997. [docket 44] Filed: September 3, 1997

AFFIDAVIT OF AYMAN ALOURI

I, Ayman Alouri, having personal knowledge of the facts contained herein, being over the age of 18 years, and otherwise being competent to testify in this matter, state as follows:

1. I am a citizen of the United States of America.
2. I have a Doctor Degree of Philosophy from the University of Manchester, England.
3. Between the months of October 1, 1993, through July 6, 1995, I was studying abroad in Manchester, England.
4. I was not in the United States on July 20, 1993, therefore, I was not in Fort Marcy Park on July 20, 1993.
5. On May 26, 1995, I purchased a dark blue Honda Accord LX, identification number 1HGCA563HA125690. This is the only vehicle that I have owned from that day to the present time.
6. I have never owned a "white Honda" as described in Plaintiff's Amended Complaint ¶ 59. Therefore, I was not driving a "white Honda" around Washington Circle on October 25, 1995, as alleged in Plaintiff's Amended Complaint ¶ 59.

7. I was not aware of any Grand Jury subpoena served on Plaintiff on October 25, 1995.

8. I was not aware of any testimony given by Plaintiff before the Grand Jury on November 1, 1995.

9. I am not aware of, nor have I ever engaged in, any acts to commit a conspiracy to obstruct justice.

10. I am not aware of, nor have I ever engaged in, any acts to cause the plaintiff emotional distress.

/S/
Ayman Alouri

- 2 –

DISTRICT OF COLUMBIA
HEREBY CERTIFY that on this 2 d day of September, 1997, before the subscriber, a Notary Public of the District of Colombia, personally appeared before me Ayman Alouri, who, after being duly sworn according to law, deposed and stated the facts contained in the Affidavit filed herein.

Sworn to and subscribed before me, this 2nd day of September, 1997.

/S/
Notary Public
SARAH J. TOWN
Notary Public, District of Columbia. My Commission Expires April 30, 2000

- 3 –

[documentation corroborating that he was out of the country on July 20, 1993 (the day Mr. Foster died), omitted; uncontested]

Appendix J-3: **Exhibit: Excerpt from the Report of the [regulatory] Independent Counsel In Re Vincent W. Foster, Jr. Robert Fiske [docket 44] Filed: September 3, 1997**

REPORT OF THE
INDEPENDENT COUNSEL

IN RE
VINCENT W. FOSTER, JR.

Washington, D.C.
June 30, 1994

Robert B. Fiske, Jr.
Independent Counsel

Roderick C. Lankler
Deputy Independent Counsel

Mark J. Stein
Carl J. Stich, Jr.
Associate Independent Counsel

was unable to see a gun in Foster's hand while viewing the body from the top of the berm due to the dense vegetation around Foster's body. He stated that he could not see the gun even when it was specifically referred to by a medic from Fairfax County EMS, who was positioned next to the body. Similarly, Ralph Pisani,a technician with Fairfax County EMS, was positioned about fifteen feet from the body at the top of the berm when he asked a colleague

where the gun was. Even after he was told that the gun was in Foster's right hand, he was unable to see it from his position.

CONCLUSION

This report does not purport to provide definitive answers to all questions surrounding Vincent Foster's death. Obviously, it is impossible to completely understand how or why he came to the point at which he decided to take his own life.

The overwhelming weight of evidence compels the conclusion, that Vincent Foster committed suicide in Fort Marcy Park on July 20, 1993. Although the contributing factors to his depression state can never be precisely determined, there is no evidence that any issues related to Whitewater, Madison Guaranty or CMS played any part in his suicide.

Defendant's
Exhibit B

FBI Lab personnel excavated to a depth of approximately eighteen inches, searching the soil through various screening methods. No bone fragments or bullets were found.

ANALYSIS

A. Analysis And Conclusions Of Forensic Pathology Panel

Four experts in the field of forensic pathology reviewed and analyzed the evidence obtained during the course of this investigation. Each member of the Pathologist Panel was provided unrestricted access to the FBI Lab Reports; the reports of all interviews conducted during the course of the investigation; the report issued by the Park Police following its investigation; the autopsy report; all photographs taken at the scene of Foster's death and autopsy; and microscopic slides containing portions of Foster's soft palate obtained during the autopsy. In addition, the Pathologist

Panel discussed the evidence with members of this office, the FBI investigating agents, and FBI Lab personnel. Two members of the Panel met with the Medical Examiner, Dr. Beyer.

After reviewing and analyzing the evidence, the Pathologist Panel issued a report stating its conclusions and summarizing the bases for its conclusions. The Panel concluded the following: 1) The bullets wound to Foster's head and brain caused his death;

Defendant's
Exhibit C

Logically, this matter is either blood or saliva from Foster's mouth.

The condition of Foster's body indicates that Foster voluntarily placed the gun in his mouth. The evidence is nconsistent with someone having forced the gun into his mouth. No broken teetrh or other trauma were discovered during the autopsy, and there was no sign of a struggle. It is highly unlikely that someone could have forced a gun into the mouth of a man Foster's size (six feet, four and one-half inches in height and weighing 197 pounds in weight) without a struggle that would have resulted in Foster sustaining some other detectable injury. Nor was there any evidence that he was incapacitated by drugs or alcohol.

The physical evidence also demonstrates that Foster himself pulled the trigger. An autopsy photograph depicts a mark on Foster's right thumb consisitent with the recoil of the trigger after firing. Based on the existence of this mark and Park Police scene photographs showing the position of the gun, the Pathologist Panel concluded that after Foster fired the gun, his "right thumb was trapped and compressed between the trigger and the front of the trigger guard." Pathologist Report, Para. 8.

Moreover, the photographs reveal and the autopsy confirms that there was Gunpowder on the portion of Foster's right index finger facing his thumb and in the web area between the index finger and the thumb. Dr. Beyer, the Medical Examiner, also noted a lesser amount of gun powder on Foster's left index Finger. The

Defendants
Exhibit D

Appendix K

ORDERS entered
Dstrict Court Orders, Knowlton v. United States et ai, CA 2467:

December 12, 1997 Order staying Discovery pending ruling on dispositive motions

September 9, 1999: Order:
(1) Denying plaintiff's October, 1998, motion for leave to amend complaint (2) granting defendants' motions for summary judgment

September 9, 1999 Memorandum:
(1) denial of plaintiff's October, 1998, motion for leave to amend complaint (2) granting defendants' motions for summary judgment

November 29, 1999 Order:
Denying plaintiff's Rule 59(e) motion to alter or amend judgment

---

December 12, 1997 Order staying discovery pending ruling on dispositive motions

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

PATRICK JAMES KNOWLTON)
)
Plaintiff,)

	)	
v.	)	Civil Action No. 96-2467
	)	(JGP)
United States of America, et al.,	)	
	)	
Defendants.	)	
	)	

ORDER

This case came before the Court for a initial scheduling conference on December 12, 1997. There is pending before the Court the plaintiff's motion for leave to file a second amended complaint. There is also pending before the Court the motion to dismiss, or in the alternative, for summary judgement filed by the "Federal Defendants," and a similar motion filed by the defendant Ayman Alouri. The other named defendant, Abdel Salem Alouri, has not been served. The plaintiff advised the Court that he would require 24 months to complete discovery and that he anticipates at least 30 deposition.

The Federal Defendants and Alouri have asked that there be no discovery until the Court ruled on their motions. The Court scheduled a hearing on the motions for January 20, 1998.

It is hereby

ORDERED that all discovery is stayed pending the Courts ruling on the pending dispositive motions, and it is further

ORDERED that the motion to dismiss or for summary judgement be heard on January 20, 1998, at 1:30 p.m.

/S/
JOHN GARRETT PENN
United States District Judge

[ENTERED December 12, 1997]

September 9, 1999: Order (1) Denying plaintiff's October, 1998, motion for leave to amend complaint (2) granting defendants' motions for summary judgment

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

PATRICK JAMES KNOWLTON	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 96-2467
	)	(JGP)
United States of America, et al.,	)	
	)	
Defendants.	)	
	)	

ORDER

This matter is before the Court on motions to dismiss, or in the alternative, for summary judgment. Also pending is Plaintiff's motion for Leave to File Revised Second Amended Complaint. For the reasons set forth in the accompanying Memorandum, it is hereby

ORDERED that the Federal Defendants' Motion to Dismiss, or in the alternative, Motion for Summary Judgment is granted; and is further

ORDERED that Defendant Ayman Alouri's Motion to Dismiss, or in the alternative, Motion for Summary Judgment is granted; and is further

ORDERED that Plaintiff's Motion for Leave to File Revised Second Amended Complaint is denied; and is further

ORDERED that judgment be entered in favor of defendants and against plaintiff; and is further

ORDERED that this case is dismissed with prejudice.

Date: SEP 9 1999

/S/
JOHN GARRETT PENN
United States District Judge

September 9, 1999: Memorandum re (1) denial of plaintiff's October, 1998, motion for leave to amend complaint (2) granting defendants' motions for summary judgment

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

PATRICK JAMES KNOWLTON	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 96-2467
	)	(JGP)
United States of America, et al.,	)	
	)	
Defendants.	)	
	)	

MEMORANDUM

This matter arises out of an alleged conspiracy to obstruct justice into the investigation of the death of deputy White House counsel Vincent Foster. Plaintiff alleges that, in furtherance of this conspiracy, defendants conspired to impede his testimony before the grand jury charged with investigating Mr. Foster's death. Pending before the Court are defendants' motions to dismiss, or alternatively for summary judgment, as well as plaintiff s motion to file a revised second amended complaint. For the reasons set forth below, defendants' motions for summary judgment will be granted, and plaintiffs motion to file an amended complaint will be denied.

I. Background

Plaintiff filed this civil rights action against the United States, Federal Bureau of Investigation ("FBI") Agents Lawrence Monroe and Russel Bransford, Ayman Alouri, Abdel Salem Alouri, and John

Does I through 24, alleging a conspiracy to obstruct justice. Plaintiff alleges that defendants conspired to intimidate him in connection with his testimony before the grand jury and that this conspiracy was subsidiary to a larger conspiracy to hide the facts of Mr. Foster's death.

Plaintiff alleges he was in Fort Marcy Park on July 20, 1993, the day Vincent Foster's body was discovered in that park. Plaintiff was interviewed at the time by an agent of the FBI. Over two years later, in October 1995, an article appeared in the London Sunday Telegraph in which it was reported that plaintiff believed his statements to the FBI regarding what he had seen in the park in July 1993 had been falsified. On October 26, two days after that article became available in the United States, plaintiff was served with a subpoena by the Office of Independent Counsel requiring him to appear before the grand jury on November 1.

Plaintiff alleges that on the same day he was served, the defendants "began a campaign of harassment, intimidation, terror, and psychological attack" in an effort to deter plaintiff from testifying fully and truthfully. Plaintiff alleges that the conspiracy against him began in April 1994, when defendant Monroe interviewed him and falsified statements he made regarding the events he witnessed in the park. Amend. Compl. ¶ 6. Specifically, Agent Monroe questioned plaintiff regarding the color of a Honda plaintiff had seen parked in the lot at Fort Marcy Park, attempting to discern whether the Honda with Arkansas license plates that plaintiff had seen could have been Mr. Foster's car. Amend. Compl. ¶ 18. Plaintiff insisted it could not have been, because the car he had seen was older than Mr. Foster's 1989 Honda, and was rust-brown, not taupe like Mr. Foster's car. Id. Agent Monroe interviewed plaintiff a second time, in May 1994, and subsequently prepared reports of plaintiffs statements, in which plaintiff alleges Agent Monroe "knowingly and with specific intent to obstruct justice, falsified Plaintiffs account" of the car he had observed. Id. ¶ 20.

Plaintiff alleges that on October 13, 1995, an investigative journalist showed him for the fast time the written summaries of his statements prepared by Agent Monroe. Amend. Compl. ¶ 25. On

October 22, an article appeared in the London Sunday Telegraph, reporting that plaintiff was in Fort Marcy Park on the day Mr. Foster's body was discovered, and that he was "stunned" to see the official summaries of his statements, alleging they were falsified. Amend. Compl. ¶ 26. On October 26, two days after the London Sunday Telegraph article was available in the United States, plaintiff was served by Agent Bransford with a subpoena to testify before the grand jury on November 1. Amend. Compl. ¶ 27.

Plaintiff alleges that when the story was published in the London Sunday Telegraph, in which plaintiff indicated that his statements had been falsified, defendants "conspired and schemed to neutralize Plaintiffs statements, both made and anticipated." Amend. Compl. ¶30. The purpose of this conspiracy, according to plaintiff, was "to neutralize any damage Plaintiff could do to the ongoing conspiracy to hide the circumstances of Mr. Foster's death," by "intimidating and warning" plaintiff, and failing that, by "destabilizing and discrediting" him. Amend. Compl. ¶ 30. The ensuing "campaign of harassment, intimidation, terror, and psychological attack" began, according to plaintiff, on the same day he was served with a subpoena, October 26, 1999. Amend. Compl. ¶¶ 31, 32. On the evening of October 26, as plaintiff and a companion, Kathy,[78] walked on a public street, John Doe One ("ONE") walked toward them and stared directly at plaintiff, directing a "fierce glare" toward plaintiff. Amend. Compl. ¶ 33. After plaintiff and his companion passed, ONE "raised his left wrist to his mouth and spoke into his coat sleeve" as he continued to stare at plaintiff. Id. In the following minutes, John Does TWO through ELEVEN followed or approached plaintiff, directing "fierce" stares his way. Amend. Compl. ¶¶ 34-51. One of the John Does, EIGHT, made physical contact with plaintiff, brushing against him as he passed. Amend. Compl. ¶ 43.

The alleged harassment continued the following day, October 27. Amend. Compl. ¶ 52. That morning, plaintiff and Kathy were walking on the street when a black Nissan Altima with Maryland

[78] "Kathy" has requested that her identity remain confidential, unless and until necessary.

plates drove past them. John Doe TWELVE, who was driving the car, and THIRTEEN a passenger, each stared directly at plaintiff. Amend. Compl. ¶ 52. Plaintiff alleges, upon information and belief, that the car driven by TWELVE was a federal government vehicle. Id. 153. Later than afternoon, plaintiff walked with another individual, Christopher Ruddy, and was again approached by strangers. Id. ¶54. Plaintiff describes his first encounter that afternoon, with John Doe FOURTEEN, as follows:

> Approximately two minutes after [plaintiff and Mr. Ruddy] left Plaintiffs building, Defendant FOURTEEN crossed the street so that they all reached the comer at the same time. FOURTEEN glared at Plaintiff, raised his eyebrows and from the waist pointed his finger at Plaintiff as if to say "gotcha." FOURTEEN then walked on. Ruddy approached FOURTEEN, produced his journalist ID, and spoke to FOURTEEN, whereupon FOURTEEN introduced himself as "Joe Colter," and said he had worked at the White House, a World Bank organization, as an advisor to Bill Clinton, and currently at an international technology business.
>
> FOURTEEN reintroduced himself and shook Plaintiffs hand while saying, "I didn't hear your name." Plaintiff repeated "Patrick Knowlton," whereupon FOURTEEN gave Plaintiffs hand a hard squeeze and while leaning forward and glaring into his eyes, said, "Nice to meet you, Mr. Knowlton."

Amend. Compl. ¶¶ 54-55. Plaintiff states that he understood FOURTEEN's finger point to be a "direct threat of harm." Id. ¶ 56.

The harassment continued. John Doe FIFTEEN watched plaintiff's interaction with FOURTEEN, and then approached plaintiff and "stared at [his] face for about thirty seconds." Amend. Compl. ¶57. Following, this encounter, plaintiff alleges he was harassed by two of the named defendants, Ayman Alouri and Abdel Alouri. Plaintiff alleges that as he and Mr. Ruddy continued to walk, a white Honda with Virginia plates stopped in a no-parking zone. Amend. Compl. ¶ 59. The driver, Ayman Alouri, and the passenger, Abdel Alouri, "continuously stared in Plaintiffs direction as Plaintiff

crossed in front of the car and proceeded around the [traffic] circle." Id. Ayman Alouri then drove the car slowly around the circle, as Abdel Alouri continued to glare at plaintiff. Id. Seconds later, Ayman Alouri and Abdel Alouri passed plaintiff again, and stopped the car about sixty feet ahead. Amend. Compl. ¶59. The men then "adjusted the car mirrors so as to watch plaintiff." Id. Just before the car drove away, plaintiff and Mr. Ruddy noted the license plate number. Id.

Following his encounter with Ayman Alouri and Abdel Alouri, plaintiff alleges he was followed and/or stared at by a number of other John Does. These encounters involved John Doe SIX, whom plaintiff had recognized from the day before, and John Does SIXTEEN, SEVENTEEN, EIGHTEEN, NINETEEN, TWENTY, and TWENTY-ONE. Plaintiff additionally alleges that at one point, SIXTEEN and EIGHTEEN were speaking to each other, and SIXTEEN subsequently "raised his left wrist to his mouth and spoke into his coat sleeve." Amend. Compl. ¶ 66. Mr. Ruddy approached SIXTEEN and asked whether he worked for a federal law enforcement agency, to which SIXTEEN replied "something like that." Id. Plaintiff also alleges that NINETEEN bumped into a chair in which plaintiff was seated, and then walked past him, glaring. Amend. Compl. ¶ 69.

Later on the afternoon of October, 27, 1995, plaintiff reported the alleged pattern of harassment and intimidation to the FBI. Amend. Compl. ¶ 74.

On the following day, October 28, 1995, plaintiff alleges he was harassed by defendants John Does TWENTY-TWO and TWENTY THREE. TWENTY-TWO allegedly knocked on plaintiff's door at 12:15 a.m. and left when plaintiff inquired who it was. Amend. Compl. ¶ 75. Plaintiff believes that TWENTY-TWO also had called his apartment from the lobby phone several times earlier in the evening, each time hanging up when the phone was answered. Id. TWENTY-THREE allegedly followed plaintiff down the street, increasing and slowing his speed to keep pace with plaintiff. Id. ¶ 76.

On Monday, October 31, 1995, three days after plaintiff complained to the FBI about the alleged pattern of harassment, plaintiff was contacted by defendant FBI Agent Bransford. Amend. Compl. ¶ 78. Agent Bransford agreed to visit plaintiff, and agreed to call plaintiff in advance of his visit so that plaintiff could have his attorney present for their meeting. Amend. Compl. ¶ 78. Later the same day, plaintiff alleges that Agent Bransford called from his car just outside of plaintiffs building, and "reluctantly" agreed to wait until plaintiffs lawyer arrived. Amend. Compl. ¶ 79. Plaintiff alleges that he hung up the phone after speaking with Agent Bransford and picked the phone up to call his lawyer, but that his phone line was dead. ¶ 79. Minutes later, Agent Bransford appeared at plaintiff's door, and allegedly stated that if plaintiffs phone was tapped, plaintiff would not know, because such taps are undetectable. Amend. Compl. ¶ 80. Plaintiff describes the remainder of his interaction with Agent Bransford as follows:

> After displaying his weapon, Agent Bransford refused to provide plaintiff protection, explained that he worked under Fiske, that he was kept on under Starr, and that he worked with Agent Monroe. During their conversation, Agent Bransford grinned at Plaintiff as if he knew exactly what had happened to Plaintiff. In response to Plaintiffs question whether Plaintiff should trust him, Agent Bransford responded, "I don't know, Mr. Knowlton, that's a good question.". Plaintiff ordered Agent Bransford out of his home, whereupon Plaintiffs telephone rang and his telephone service was immediately restored.

Amend. Compl. ¶ 80.

Plaintiff alleges that Agent Bransford "purposefully disabled" his telephone in order to prevent him from contacting his attorney. Amend. Compl. ¶ 81. He further asserts that Agent Bransford "was carrying a wireless transmitter and that another FBI Agent was monitoring their conversation, and that this other FBI Agent called Plaintiffs telephone number to signal Agent Bransford to exit Plaintiffs apartment when Plaintiff became upset and ordered Agent Bransford out of Plaintiffs apartment." Amend. Compl. ¶ 81.

Plaintiff testified before the grand jury, as scheduled, on November 1, 1995. Amend. Compl. ¶ 83. Plaintiff alleges that the prosecutors questioning him had been informed, prior to his testimony, about plaintiffs allegations of being harassed by more than twenty-five individuals. Id. Plaintiff alleges his belief that he had been discredited, stating that prosecutors did not believe his "bizarre account of being harassed, at one point asking Plaintiff to 'tell us a little bit about the alleged harassment.'" Amend. Compl. ¶ 83.

On November 2, the day following his testimony, plaintiff observed defendant John Doe TWENTY-FOUR standing outside of plaintiffs apartment building. Amend. Compl. ¶ 84. TWENTY-FOUR "made eye contact with Plaintiff, acted startled and immediately turned around and walked out the door." Id. Outside of the building, plaintiff watched as TWENTY-FOUR reached into a bag, and then, immediately upon making eye contact once more with plaintiff, quickly pulled his hand out of the bag and turned and ran. Id. Plaintiff states that when he saw TWENTY-FOUR reach into his bag, he feared he might be shot. Amend. Compl. ¶ 85.

The Charges

Plaintiff's complaint contains five counts. Count I charges all defendants, the United States, Agents Monroe and Bransford, Ayman Alouri and Abdel Salem Alouri, and John Does Numbers One through Twenty-Four, with conspiracy to interfere with his civil rights and obstruction of justice in violation of 42 U.S.C. § 1985(2). The remaining claims allege state law violations: intentional infliction of emotion distress (Court II, against all defendants); assault (Count III, against John Does 5-10, 14-17, 19, 20, 24); battery (Count IV, John Does 8 and 19); and civil conspiracy (Count V, all defendants).

II. Discussion

A. Status of Defendants United States of America and Federal Agents in their Official Capacities

Plaintiff's initial complaint and his first Amended Complaint included as defendants the United States of America and two federal agents in their official (and individual) capacities. These Federal Defendants moved to dismiss the case in part because § 1985 does not apply to actions against the United States, and because as to the remaining claims, plaintiff had failed to exhaust his administrative remedies as required by the Federal Tort Claims Act. In his responding papers, and at oral argument, plaintiff did not dispute defendants' position. See Plaintiffs Opposition at vii ("Defendants correctly assert that Plaintiff has failed to adhere to the jurisdictional mandates of the FTCA, as well as exhaust his administrative remedies under the FTCA, and that Plaintiffs claims against the United States are therefore not yet properly before this Court."); Transcript of Motions Hearing ("Tr.") at 11-12 (plaintiffs counsel's statement that "Plaintiff has not opposed the defendant's motion to dismiss the United States, but for somewhat different reasons than the defendant claims."). Indeed, plaintiffs proposed revised Second Amended Complaint drops the United States as a defendant to this action. See Plaintiffs Motion for Leave to File Revised Second Amended Complaint ¶ 7 ("During oral argument, plaintiff apprised the Court that he did not oppose the motion to dismiss the United States as a defendant because plaintiff had not yet exhausted his administrative remedy under the Federal Tort Claims Act."); see also Revised Second Amended Complaint (failing to name United States as a defendant). Moreover, although plaintiff apparently does not concede to dismissal of the federal agents in their official capacity, see Plaintiffs Opposition at vii, a suit against federal officers in their official capacities is a lawsuit against the United States, and so this action must be dismissed as against the agents in their official capacities as well.[79] See Kentucky v. Graham, 473 U.S. 159, 166 (1985); Graves v. United States, 961 F. Supp. 314,318 (D.D.C. 1997). Therefore, to the extent the Federal Defendants move to dismiss the United States and the agents in their official capacities, the motion to dismiss is granted.

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[79] In any event, as discussed below, the claims against Agents Monroe and Bransford must be dismissed because plaintiff fails to tie them to any conspiracy.

B. Section 1985(2) Claim against Agents Monroe and Bransford in their Individual Capacities, and Defendants Ayman Alouri and Abdel Salem Alouri

Pending before the Court are defendants' motions to dismiss, or in the alternative, for summary judgment. Because the parties have submitted documents, including affidavits, in support of their positions and the Court has considered these submissions, the motions will be treated as ones for summary judgment. See Fed. R. Civ. P. 12(b) (stating that if on a motion to dismiss for failing to state a claim upon which relief may be granted, "matters outside the pleading are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided in Rule 56"). Summary judgment is appropriate where "the pleadings, depositions, answers to interrogatories, and admissions on file, together with affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(c); Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 247, 106 S. Ct. 2505, 2509-2510 (1986). In opposing a properly supported motion for summary judgment, plaintiff cannot rely on mere allegations, but "must set forth specific facts showing that there is a genuine issue for trial." Fed. R. Civ. P. 56(e). All "justifiable inferences" will be drawn in favor of the non-moving party. See Anderson, 477 U.S. at 255, 106 S. Ct. at 2513. However, in order to survive a motion for summary judgment, there must be "sufficient evidence favoring the nonmoving party for a jury to return a verdict for that party." Id. at 249, 106 S. Ct. at 2511. Evidence that is "merely colorable" or which "is not significantly probative," will not suffice to defeat an otherwise appropriate motion for summary judgment. Id. at 249-250, 106 S. Ct. at 2511.

The sole federal claim before this Court is an alleged violation of 42 U.S.C. § 1985(2). The essential elements of a § 1985(2) claim are (1) a conspiracy between two or more persons, (2) to deter a witness by force, intimidation or threat from attending court or testifying freely, fully, and truthfully in any pending matter, which (3) results in injury to the plaintiff. See, e.g., Brever v. Rockwell Int'l Corp., 40 F.3d 1119, 1126 (10th Cir. 1994); Chahal

v. Paine Webber Inc., 725 F.2d 20, 23 (2d Cir. 1984); Graves v. United States, 961 F. Supp. 314, 319 (D.D.C. 1997). Defendants[80] contend that plaintiff fails sufficiently to allege a conspiracy. Specifically, defendants argue that although plaintiff vaguely alleges a meeting of the minds, he fails to identify specifically what constituted the alleged agreement, relying instead on a clustering of events. Plaintiff does not dispute that an agreement among conspirators is a required element of a conspiracy claim. Rather, he states that an agreement may be inferred from circumstantial evidence, including a pattern of events, and that his complaint alleges sufficient facts to maintain a conspiracy claim.

In order to establish a conspiracy, plaintiff must allege facts showing the existence of an agreement, or "meeting of the minds", between defendants to violate plaintiffs civil rights. See Graves, 961 F. Supp. at 320-21; Moss v. Perkins, 682 F. Supp. 395, 396 (N.D. Ill. 1988) (stating that in order to plead a conspiracy, plaintiff must allege facts that would support a conclusion that defendants "actually possessed the same motives or objective"). Conclusory assertions will not suffice. See Graves, 961 F. Supp. at 320-21; Moss, 682 F. Supp. at 396 ("Mere conclusory pleadings that the parties 'agreed and conspired' to deprive [plaintiff] of his constitutional rights are insufficient to state a cause of action for conspiracy.") Simms v. Reiner, 419 F. Supp. 468,474 (N.D. Ill. 1976) (finding reliance on "entire cluster of events" insufficient to establish a conspiracy, stating that "unsupported conclusions and inferences are insufficient to support a charge of conspiracy").

After reviewing the evidence in the light most favorable to the plaintiff, the Court concludes that he has failed to raise issues of material fact regarding an agreement, or "meeting of the minds", by any defendant.

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[80] Ayman Alouri and the Federal Defendants separately filed motions dismiss or for summary judgment. With respect to plaintiffs § 1985 claim, Defendant Alouri for the most part defers to the government's arguments. For purposes of the Court's discussion, all defendants will be considered together.

Monroe

Defendant Monroe is alleged to have falsified statements plaintiff gave during an interview following the discovery of Vincent Foster's body. These acts, according to plaintiff's complaint, began the conspiracy against him. Plaintiff essentially complains that although he insisted during the interview that the car he saw in the park was older and a different color than Foster's car, Agent Monroe "knowingly and with specific intent to obstruct justice, falsified Plaintiffs account" of the car. Plaintiff also apparently objects to "repeated" attempts by Monroe "to obtain an admission" from him that the car he saw could have been Foster's car and asserts that, failing to get that admission, Monroe subsequently falsified his reports of plaintiffs statements. See Plaintiffs Opp. to Fed. Defendants' Motion to Dismiss at 2-3 (referring to these activities as overt acts in furtherance of the conspiracy).

Initially, the Court rejects plaintiff 's characterization of Agent Monroe's reports of plaintiffs statements. A review of the forms, known as "FD-302"s, which memorialize plaintiffs statements, makes it abundantly clear that Agent Monroe reported that plaintiff believed that the car he saw was older than Foster's car and was brown or rusty brown in color. The FD-302 dated April 18, 1994, which related to an April 15, 1994 interview, did indicate that plaintiff identified the vehicle as "a 1988-1990 brown or rusty brown" Honda. Exhibit 1, attached to Federal Defendants, Motion. However, the report also indicated that after "closely scrutinizing" photographs of Mr. Foster's car, plaintiff stated that "it was his opinion that this vehicle [which he had observed] was either brown or rust brown in color and appeared to be an older vehicle than the photographs he was exhibited." Id. at 3. The report continued, emphasizing plaintiffs belief about the age of the car: "In fact, [plaintiff] stated that after viewing television reports the evening of July 20, 1993 in which Mr. Foster was identified as a White House lawyer, he remembered thinking to himself that due to the age of this vehicle it was not, in his opinion, a vehicle typically driven by a lawyer." Id.

Plaintiff was subsequently reinterviewed by Agent Monroe, and the FD-302 relating to this interview also makes it clear that plaintiff believed the car he observed was older than Mr. Foster's car, See Exhibit 2, attached to Federal Defendants' Motion (FD-302 dated May 12, 1994, for interview conducted May 11, 1994). That report states that after plaintiff was informed of conflicting witness statements and again shown photographs, plaintiff "still believes that the vehicle he observed during the period of time he was in Fort Marcy Park on July 20, 1993 was brown in color and still believes looked "older than Mr. Foster's 1989 four door Honda Accord." Id. at 2. The report further states that plaintiff also believed that the vehicle he saw was "shorter in length or more compact than the photographs of Mr. Foster's 1989 Honda and further believed that the color of the vehicle had a flat finish and was not glossy or clear coated as represented in the photographs of Mr. Foster's 1989 Honda." Id. Thus, it is absolutely clear upon reading the FD-302s, as dictated by Agent Monroe, that plaintiff strongly believed that the vehicle he observed in the park that day, although also a Honda with Arkansas plates, was not the same car as that driven by Vincent Foster. It is clear that plaintiff believed and reported to Agent Monroe that the car he saw was older and of a different color than Foster's car.

Plaintiff takes issue with certain of the wording in the report.[81] The fact that Agent Monroe did not memorialize plaintiffs statement precisely the way plaintiff might have liked is not itself evidence of his tie to a conspiracy to obstruct justice. Plaintiff also focuses on the statements in the FD-302s that he identified the car as a 1988-1990 Honda. (Foster's car was a 1989 Honda Accord.) Plaintiff offers this as evidence that Monroe falsified his statements in an effort to obstruct justice. Again, however, a simple review of

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[81] For example, plaintiff challenges Monroe's statement, in the FD302, that plaintiff "indicated that the car he saw looked like an older model," arguing that "Plaintiff repeated unequivocally told Defendant Monroe that the car he saw was definitely not the same one depicted in the photographs. Plaintiff did not 'indicate' that the car he saw 'looked like' an older model." Plaintiffs Statement of Genuine Issues and Material-Facts in Dispute ¶ 21.

the FD-302s makes it abundantly clear that plaintiff repeatedly reported that the vehicle he saw could not have been Mr. Foster's car.

Plaintiff additionally objects to Monroe's "repeated" interviews, characterizing them as an attempt to get an admission from plaintiff that the car he had seen could have been Foster's car. However, as even plaintiff acknowledges, this is consistent with good police work. See Tr. at 16.[82] Witnesses are often reinterviewed, particularly where their eye-witness accounts differ from the accounts of others or from other facts gathered by the investigators. Moreover, plaintiff's allegation that Monroe falsified plaintiffs statements when he failed to obtain an admission from plaintiff that Foster's car could have been in the parking lot when he was there, is belied by the report itself. As noted, even the second report by Agent Monroe makes it clear, indeed reinforces, plaintiffs firm belief that the car he observed was not Foster's car.

Plaintiff has also failed to present any evidence of an agreement between Agent Monroe and any other alleged conspirator. The mere fact that Agent Monroe works for the FBI as does Agent Bransford, see, e.g., Plaintiffs Opp. to Federal Defendants' Motion to Dismiss at 8, n. 14, is not sufficient to raise a triable issue of agreement. Cf. Wesley v. Don Stein Buick, Inc., 996 F. Supp. 1299, 1308 (D. Kan. 1998) (refusing to infer a meeting of the minds between two alleged conspirators on the basis that the two worked in the same police department); see also Moss, 682 F. Supp. at 396 (finding that a conspiracy cannot be inferred based only on the facts that two defendant police officers were partners, both were present during the alleged incident, and that one failed to intervene as the other assaulted the plaintiff). Plaintiff simply offers no evidence, other than the purported falsification of the reports, from which a reasonable juror could determine that Agent Monroe was involved in

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[82] After relating that plaintiff was "repeatedly" questioned and "leaned on" by Monroe, plaintiff was asked by the Court whether that wasn't good investigative work. Plaintiffs counsel responded "Yes, your honor, perhaps it is, but Monroe falsified these reports, having failed to obtain that admission." Tr. 16. As discussed earlier, although the report states that plaintiff identified a 1988-1990 Honda, it also very clearly and without equivocation relates that plaintiff believed the car he saw to be older than Mr. Foster's car.

a conspiracy to obstruct justice into the investigation of the death of Vincent Foster, as alleged by plaintiff.

Plaintiff emphasizes that his theory against Agent Monroe is one of vicarious liability. See, e.g., Plaintiffs Opposition to Defendant Ayman Alouri's Motion to Dismiss at 6 (comparing Alouri's liability as a principle to Agent Monroe, who plaintiff states "is vicariously liable only under the law of civil conspiracy"); Plaintiffs Opposition to Federal Defendants' Motion to Dismiss at 12-16. That is, plaintiff alleges that Monroe is liable for the subsidiary conspiracy based on his involvement in the broader conspiracy to obstruct justice, and because the subsidiary conspiracy was foreseeable. As discussed, however, there is nothing in the record sufficient to support an inference that Monroe was party to any overarching agreement to obstruct justice.

For these reasons, the Court determines that there are no triable issues of fact from which a reasonable fact-finder could determine that Agent Monroe agreed with one or more persons to obstruct justice into the investigation of the death of Vincent Foster. There is simply nothing in the FD-302s, or otherwise related to Agent Monroe, to support an inference of a "meeting of the minds" with respect to an overall conspiracy.

Bransford

Plaintiffs allegations against Agent Bransford stem from two interactions, the first when Agent Bransford served plaintiff with a subpoena, and the second when Agent Bransford appeared at plaintiffs home in response to plaintiffs complaints to the FBI. Plaintiff seems to suggest that the fact that Agent Bransford served plaintiff with the grand jury subpoena, indeed, the fact that plaintiff was subpoenaed at all, is evidence of Agent Bransford's involvement in the alleged conspiracy. There is simply no basis for this assertion. Agent Bransford served plaintiff with a valid subpoena with respect to a valid, on-going investigation. There is nothing about that action that suggests, even remotely, any connection to an overall conspiracy, even if one existed. To the extent plaintiff challenges the timing, this also is insignificant. First, Agent Bransford would

not have been the individual to make the determination of when to issue a subpoena, and there is no evidence that he did so. Second, plaintiff suggests there is something ominous in the timing of the subpoena because it occurred "immediately in response" to the article in which plaintiff reported that the FBI fabricated his statements. See Plaintiffs opposition to Federal Defendants' Motion to Dismiss at 3 (listing as an overt act the allegation that the FBI subpoenaed plaintiff in "immediate response" to the article); see also Tr. at 17. Again, this appears to be nothing more than the conduct of an ordinary investigation. There is certainly nothing in the timing to indicate a conspiracy to *prevent* plaintiffs account from becoming part of the record, and nothing, more importantly, to suggest that Agent Bransford is somehow a part of such a conspiracy.

The bulk of plaintiff's allegations regarding Agent Bransford's connection to the conspiracy arise from an interaction plaintiff had with him on Monday, October 31, 1995, when Agent Bransford contacted plaintiff regarding plaintiffs complaints of harassment. Initially, plaintiff suggests something sinister or conspiratorial about the fact that it took three days for the FBI to respond to his complaints of harassment. See. e.g., Plaintiffs Statement of Genuine Issues and Material Facts in Dispute ¶ 16 ("Whether the FBI failed and refused to respond to Plaintiffs pleas for help until after the harassment had ceased and whether this failure was to facilitate the 42 U.S.C. § 1985(2) violation alleged."); Tr. at 18 ("plaintiff did call, he repeatedly called, but the FBI refused to respond to his repeated pleas for help until the following Monday"). However, plaintiff offers nothing to support such an inference. There is nothing to suggest, for example, that the FBI does not normally take three days to respond to complaints in the nature of those made by plaintiff. Plaintiffs complaints to the FBI did not include incidents involving weapons, violence, or overt threats, and there is nothing inherently unreasonable about the FBI responding three days after hearing about a series of "fierce glares", especially absent any evidence that such reported threats are ordinarily treated more expeditiously. There is certainly nothing, in any event, to suggest that Agent Bransford himself made the decision of when to respond. See Amend. Compl. ¶ 74 (alleging that "Agent Bransford's *superiors* received actual notice that Plaintiff was the target of an

orchestrated campaign of harassment and intimidation," and that the FBI "failed and refused" to respond immediately) (emphasis added).

Plaintiffs assertions regarding the actual visit with Bransford also fail to support an inference that Bransford conspired to violate § 1985(2). Plaintiff alleges that Agent Bransford failed to call in advance of his visit and then failed to wait for plaintiff's counsel to arrive, as the agent had promised he would, before arriving at plaintiffs apartment. Plaintiff also alleges that Agent Bransford caused plaintiffs phone to be disabled in order to prevent plaintiff from contacting his attorney, and, once he was inside the apartment, that Bransford made a number of comments that left plaintiff unnerved.

Plaintiffs allegation that Agent Bransford somehow remotely disabled his phone is completely conclusory. See Amend. Compl. ¶ 81 ("*Upon information and belief*, Plaintiff avers that Agent Bransford purposely disabled Plaintiffs telephone...") (emphasis added); Tr. at 19-20.[83] The remaining details of the interaction plaintiff describes are for the most part completely consistent with proper FBI business, and are not grounds for a reasonable inference of an involvement in a conspiracy to hinder plaintiffs testimony.

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[83] The following colloquy between plaintiff's counsel and the Court occurred at oral argument:

Counsel:	[W]e allege that the FBI disconnected plaintiffs telephone. ...[Agent Bransford] knew that plaintiff would be unable to contact me, because he had disconnected plaintiffs telephone.
The Court:	How did he disconnect plaintiffs telephone?
Counsel:	Your honor, I don't know. It's my understanding that the FBI has the capability to disconnect from a remote location a telephone, so it can't be used, either incoming or outcoming telephone calls.
The Court:	You say it's your understanding?
Counsel:	I don't have anything--
The Court:	You have nothing to support the allegation that the FBI did disconnect the phone; is that right?
Counsel:	Only the sequence of events, the circumstances.

Tr. At 19-20

There is no requirement that grand jury witnesses have counsel present when speaking with FBI agents, and Agent Bransford's failure to wait for plaintiffs counsel, even if he had promised to do so as plaintiff alleges, may be indicative of the agent's impatience, rudeness, or poor judgment. It does not, however, indicate any agreement with others to participate in an effort to intimidate plaintiff. Perhaps if these allegations were combined with other evidence of Agent Bransford's interaction with co-conspirators, or some other evidence of his participation in a conspiracy, then his failure to wait and even his comments once in the apartment might be said to be further support of a conspiracy. On their own, however, they do not raise such an inference. Plaintiff asks the Court to consider Agent Bransford's actions in the context of the remainder of his allegations, which the Court of course has done. However, plaintiff fails to connect Agent Bransford to any of the unnamed defendants, to the Alouris, or to any motive for participating in a conspiracy. His connection to Agent Monroe and to the FBI alone is not sufficient.

Ayman and Abdel Alouri

Plaintiff alleges that among the persons who glared at him prior to his grand jury testimony were Ayman Alouri and Abdel Salem Alouri, who drove by plaintiff in a white Honda. The men allegedly "continuously stared in Plaintiffs direction as Plaintiff crossed in front of the car," and subsequently watched plaintiff in the car's mirrors. Amend. Compl. ¶ 59.

Initially, Abdel Salem Alouri has never been served in this action. Thus, plaintiffs allegations against this defendant will be dismissed. See Fed. R. Civ. P. 4(m). With respect to Ayman Alouri, plaintiff again fails to allege, and in response to motions for summary judgment fails to come forward with any evidence of, an agreement of any sort between Mr. Alouri and any other defendant in this action. Even if the facts alleged by plaintiff were proven to be true,[84] that is, that Mr. Alouri and a passenger drove past plaintiff in

[84] Mr. Alouri disputes the factual allegations. He submitted an affidavit stating that he has never owned a white Honda and was not driving a white Honda on October 25, 1995; he also states that he was not aware of and did not engage in

a traffic circle and stared at him, and then watched him in the car mirror, this would not be sufficient to support a conspiracy claim against Mr. Alouri. Plaintiff does not allege any connection whatsoever between Mr. Alouri and any other conspirator. He relies completely on the pattern of events and this simply is not sufficient. The behavior alleged by plaintiff is consistent with behavior occasionally observed in a big city and absent any evidence of a meeting of the minds, indeed of any connection whatsoever to any other conspirator, plaintiffs allegations must be dismissed.

C. Plaintiffs Reliance on the "Entire Series of Events"

Plaintiff's arguments stray from the named individuals in his complaint, and he attempts instead to rely on the circumstances and timing of the alleged events. Plaintiff emphasizes that when everything is taken together, when the events are considered in tandem, there is sufficient evidence of a conspiracy to submit to a fact finder. His argument ultimately is unpersuasive. Plaintiff relies heavily on Brever from which he quotes the following passage:

> While more than mere conclusory allegations are required to state a valid claim, "the nature of conspiracies often makes it impossible to provide details at the pleading stage and ... the pleader should be allowed to resort to the discovery process and not be subject to dismissal of his complaint."

Brever, 40 F.3d at 1126 (citation omitted).

The instant case is quite distinguishable from Brever, however. The conspiracy alleged in Brever involved threats and intimidation directed at two employees of a plutonium plant. The plant was being investigated by the FBI, and the plaintiff employees were believed to be "whistleblowers." At a staff meeting, which was attended by several of the named defendants, one of the plaintiffs was told not to cooperate with the FBI. She responded that she

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any conspiracy and did not even know of the grand jury subpoena served upon the plaintiff. Affidavit of Ayman Alouri, attached as exhibit to Alouri's Memorandum of Points and Authorities in Support of Defendants Motion to Dismiss or in the Alternative Motion for Summary Judgment.

would not lie if interviewed by the FBI. The next day, plaintiffs were refused access to important documents. In a subsequent staff meeting, a manager stated that whistleblowers would be "dealt with severely and completely." Plaintiffs alleged that thereafter, defendants began a "campaign of harassment, intimidation, terror..." The alleged acts of intimidation included threats of harm, publication of false charges that plaintiffs were whistleblowers, repeated assignment to excessively hazardous duties, and sexually harassing body contact. Brever, 40 F.3d at 1123. In one instance, plaintiffs were intentionally exposed to radiation, after which two defendants laughed and stated "That's what you get for making waves." Id. at 1124. The Tenth Circuit held that plaintiffs allegations were sufficient to create an inference of an agreement or a "meeting or the minds" by the conspirators. Id. at 1127. The court noted the timing of the two staff meetings, the comments management made at each meeting, and the period of harassment that immediately followed. This was sufficient, the court explained, to support an inference of a meeting of the minds between management and the individual defendants that action should be taken against whistleblowers without fear of reprimand. Id. at 1128.

Although plaintiff is correct that he would be entitled to allege an agreement by inference, this case is quite different than Brever. Unlike in Brever, plaintiff does not allege anywhere in his complaint that the 24 John Does, or Ayman Alouri, knew or ever met with the FBI. (With the exception of a conclusory allegation that "upon information and belief" one or more of the John Does were federal agents themselves.) In Brever, all of the defendants knew each other, worked together, and attended two critical staff meetings. Additionally, remarks were made that could directly support an inference of an agreement. Brever, 40 F.3d at 1123, 1124 (statements that whistleblowers will be "dealt with severely and completely" and subsequently, "That's what you get for making waves.") Importantly, the pattern of harassment itself was not the only allegation in the complaint that supported the element of agreement: there were two meetings at which it was made clear that management did not want employees to cooperate with an ongoing investigation and would "deal with" those who did cooperate. These sentiments were expressed by, or made in the presence of, the very persons who

allegedly undertook the harassing conduct. The comments made and the relatedness of the alleged conspirators, coupled with the timing and nature of the harassment, were certainly sufficient to create an inference that there was a "meeting of the minds" among the conspirators in Brever. Here, however, plaintiff is attempting to create an inference of an agreement based only on the alleged pattern of intimidation by persons he cannot show even knew one another. That was not the case in Brever.

Importantly, this case is before this Court not only on motions to dismiss, but also on alternative motions for summary judgment. Thus, it is not enough for plaintiff to come forward with allegations that would merely survive a motion to dismiss. In opposing a properly supported motion for summary judgment, plaintiff cannot rest upon mere allegations, but must set forth specific, admissible facts showing that there is a genuine issue for trial. Fed. I- Civ. P. 56(e). Even if plaintiff could survive a motion to dismiss for failing to allege a conspiracy sufficiently, he cannot survive defendants' motions for summary judgment. In response to defendants' motions, plaintiff does not come forward with any evidence that would support a "meeting of the minds", a critical element to the establishment of a conspiracy.[85] He submits affidavits from Kathy and from Mr. Ruddy, confirming their observations with respect to the behavior of the John Does and the Alouris. However there is still no indication of who these men are and any connection they may have to agents Monroe and Bransford or to the Federal government generally. Indeed, even if plaintiff could show that the John Does were somehow tied to the federal government, which he has not, that would, at the most, tie them to the United States, which is no longer a party to this action.

Plaintiff also submits the result of a lie detector test, which at the most confirms the alleged observations but does not support an inference of an agreement involving the named defendants and which, in any event, is not admissible evidence. Finally, plaintiff

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[85] Plaintiff has not argued that particular, additional discovery would provide evidence of an agreement. In any event, plaintiff has not made enough of a showing of the existence of a conspiracy to warrant further discovery.

offers affidavits of individuals, whom he would presumably call as experts, who would testify that the alleged pattern of harassment would be indicative of witness tampering *in their experience*. These witnesses, however, have nothing to offer regarding the named individuals or any information about whether there was an agreement to intimidate plaintiff as alleged *in this case*. One affidavit, by Gene Wheaton, who represents that he is very familiar with the psychological operations and techniques of the intelligence community, states that "[t]his case appears to be the misuse of surveillance techniques to scare and intimidate the witness or to destroy his credibility." Affidavit of Gene Wheaton, Plaintiffs Exhibit 5, attached to Plaintiffs Opposition to Federal Defendants' Motions. In his Affidavit, Mr. Wheaton states as follows:

> Mr. Clarke [plaintiffs counsel] has asked me to render an opinion on the following question: Was one of the purposes of the actions described in the Amended Complaint to intimidate Mr. Knowlton to try to prevent him from testifying freely, fully, and truthfully? In my opinion, provided the events reported in the Amended Complaint are accurately portrayed, my answer is yes.

Wheaton Aff. ¶ 10. The second affidavit offered by the plaintiff is by Ted L. Gunderson, who proffers that if called to testify, he would state that the falsifications of plaintiffs statements in the FBI report and the failure of the FBI to call plaintiff to testify until two years after the incident are inexcusable failures and establish "possible purposeful falsification", "negligence", "incompetence", "and/or a deliberate attempt to obstruct justice." Gunderson Affidavit, Plaintiffs Exhibit 6, ¶ 4(l),(2). According to his affidavit, Mr. Gunderson would also testify that the technique described by plaintiff, of which he is personally knowledgeable, is used to intimidate witnesses from testifying. Gunderson Aff. ¶ 4(4). Neither proffered expert has any information tying any of the defendants to each other or any agreement to deprive plaintiff of his civil rights. Even if expert testimony were deemed appropriate in this case, the

proffered opinions do not contribute to a finding that any of defendants before this Court were party to any conspiracy.[86]

Plaintiff offered nothing additional at oral argument. The Court asked plaintiffs counsel, "Do you have any evidence of any agreement by these parties?" Tr. at 3 1. Counsel responded that "we have shown an agreement by the sequence -- number one, most: particularly, most primarily, the sequence of events." Tr. at 31. Counsel also referred to the evidence discussed above: two witnesses' affidavits; results of a polygraph; psychiatric report; "expert" reports. Tr. at 31-34. Again, for reasons already discussed, this evidence is not sufficient to raise an inference of an agreement.

It is very telling to note, moreover, that in response to the Federal defendants' motion for summary judgment, plaintiff submitted 118 exhibits, *approximately 111 of which relate to the overall investigation of the death of Vincent Foster* and which are submitted for the purpose of establishing the alleged greater conspiracy to obstruct that investigation. Similarly, of the forty-five page memorandum plaintiff submits in opposition to the government's motion for summary judgment, at least forty pages deal with the alleged conspiracy to obstruct justice into the investigation. None of this evidence - even if accurate - supports the allegations against Agent Monroe, Agent Bransford, or Ayman Alouri. Even if plaintiff could prove the existence of a conspiracy to impede the Foster investigation, plaintiff cannot rely on that conspiracy alone to pursue § 1985(2) charges against the defendants now before the Court. Indeed, even if plaintiff could prove that Agents Monroe and Bransford were involved in some greater conspiracy to obstruct justice into the investigation of Mr. Foster's death, he would still have to prove the allegations of the alleged §

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[86] Plaintiff also offers the report of a psychiatrist who examined plaintiff to determine "his credibility with regard to his reports" of harassment, and who concluded, among other things, that there was "no indication of a paranoid process or of any other pathological process that would tend to undermine Mr. Knowlton's credibility in this instance." Letter of Dr. Thomas C. Goldman, Plaintiffs Exhibit 7. This submission, too, does not provide a basis from which to infer an agreement among the alleged conspirators.

1985(2) conspiracy that is before this Court, the conspiracy to intimidate plaintiff's grand jury testimony by the alleged pattern of harassment. A comparison to Brever, which plaintiff calls a "very similar" case, see Plaintiffs Opposition to Fed. Defendant's Motion to Dismiss, at 1-2, is instructive - it clearly would not have been sufficient in that case for the plaintiffs to provide the Court with a deluge of evidence to support allegations of wrongdoing at the plutonium plant. Even if the conspiracy against the plaintiffs in Brever ultimately was tied to the fact that there was wrongdoing at the plant which defendants wanted to and agreed to cover up, the evidence of such wrongdoing itself would not have been sufficient. Plaintiffs in Brever and plaintiff here, must come forward with evidence that is sufficient to support an inference that the persons before the Court came to an agreement to commit a violation of § 1985(2). Plaintiff has not done so.

Plaintiff's submissions also cause the Court to pause for another reason. The reports of two Independent Counsel, Robert B. Fiske and Kenneth W. Starr, officially concluded that Mr. Foster's death was a suicide and that the overwhelming weight of the evidence supports this conclusion. See Ayman Alouri's Memorandum in Support of Motion (attaching as an exhibit the conclusion of the report of Independent Counsel Fiske); Report on the Death of Vincent W. Foster, Jr. (Independent Counsel Kenneth W. Starr), attached to Federal Defendants' Response to Motion for Leave to File, at 111 ("The available evidence points clearly to suicide as the manner of death.") and at 114 ("In sum, based on all of the available evidence, which is considerable, the OIC agrees with the conclusion reached by every official entity that has examine the issue: Mr. Foster committed suicide by gunshot in Fort Marcy Park on July 20, 1993."). Plaintiff insists that he does not seek the forum of this Court in which to air his belief that the investigation into the death of Vincent Foster was significantly impeded or to challenge the official conclusions of suicide. Plaintiff concedes, in fact, that if that is what he sought to do, he would lack standing. See Tr. at 12-13 (The Court: "If [plaintiff] was not asserting any injury to himself, I take it he wouldn't have standing to make the other argument [regarding an ongoing overall FBI conspiracy]; is that right?" Plaintiffs counsel responded, "That's correct, Your Honor, if he did

not have a valid section 1985 claim, then he would not have any cause of action to go forward, except with the possible exception of intentional infliction of emotional distress.") Plaintiff's assertions regarding what he seeks to prove by this lawsuit, however, are belied by his submissions to this Court. The great bulk of the arguments and exhibits presented to the Court by the plaintiff have nothing to do with the immediate issue before the Court, except to the extent that plaintiff alleges that the narrower conspiracy was undertaken in furtherance of the greater conspiracy.

As the Court has already discussed, however, *even if* plaintiff could sufficiently establish by his voluminous filings the existence of a conspiracy to obstruct justice into the investigation of the death of Mr. Foster, he cannot rely solely on the existence of that conspiracy to establish the § 1985(2) violation before this Court. Plaintiff, if his papers are scrutinized carefully, seeks to do just that. As discussed above, with respect to the only named parties plaintiff has brought before this Court--Agents Monroe and Bransford, and Mr. Alouri--plaintiff has not sufficiently alleged any connection, by inference or otherwise, to any conspiracy.

D. Plaintiffs Motion for Leave to File Revised Second Amended Complaint

Subsequent to the briefing on the motions for summary judgment, and after oral argument, plaintiff filed a Motion for Leave to File Revised Second Amended Complaint. By his motion, plaintiff seeks to accomplish essentially three things: First, plaintiff confirms that he has not exhausted his administrative remedy under the FTCA and therefore no longer names the United States as a defendant. Second, plaintiff seeks to allege additional facts with respect to defendant Ayman Alouri. Specifically, plaintiff would allege that the white Honda driven by Alouri on October 27, 1995, bore the Virginia license plate numbered NY 7534. The amended complaint would also note that defendant Alouri had removed this plate, affixed it to a different car, and then reported it lost in August of 1996. Finally, plaintiff seeks to add the following six defendants: Robert Edwards, identified as a United States Park Police Sergeant; James C. Beyer, identified as Deputy Chief Medical Examiner,

Northern Virginia District; John Doe Pathologist, who allegedly assisted in the autopsy of Mr. Foster; Robert Bryant, a former Special Agent-in-Charge of the FBI's Washington Metropolitan Field Office; Scott Jeffrey Bickett; and John Doe FBI Laboratory Technician. Defendants oppose the motions.

Plaintiffs motion will be denied. Plaintiff has already conceded that the United States cannot at this time be a proper party to this litigation. Thus, and because the Court has determined to grant defendants' motions for summary judgment, it is unnecessary for plaintiff to amend his complaint at this stage of the litigation to drop the United States as a defendant.

Plaintiffs effort to allege additional facts regarding Ayman Alouri is similarly futile. To the extent plaintiff has evidence to support his case, he could simply have submitted it in opposition to the dispositive motions. In any event, the newly alleged facts do not overcome the fatal deficiency in plaintiffs case: the new allegations do not establish any basis for a reasonable inference that Mr. Alouri knew or conspired with any other defendants.

Finally, plaintiff seeks to add a number of defendants. With one exception, these defendants are alleged to have participated in the overall conspiracy to obstruct justice into the investigation of Mr. Foster's death, and thereby to be liable for the "subsidiary" § 1985(2) conspiracy against plaintiff. Robert Edwards is identified as a retired United States Park Police sergeant, and is alleged to have "tamper[ed] with the crime scene" by manipulating Mr. Foster's body. He also is alleged to have "absconded" with photographs taken at the scene by another officer prior to his arrival. See Proposed Revised Second Amended Complaint ¶¶ 32-41. James C. Beyer, identified as a Deputy Chief Medical Examiner, and John Doe Pathologist, who assisted Beyer in the performance of the autopsy of Mr. Foster, are alleged to have undertaken a large part of the autopsy out of police presence, in violation of regulations, in part to further the overall conspiracy by concealing certain evidence inherent in the wounds suffered by Mr. Foster. Id. ¶¶ 42-46. Beyer is alleged to have committed a number of other specific acts in furtherance of the

conspiracy to conceal the circumstances surrounding Mr. Foster's death. Id. ¶¶ 48-54.

Robert Bryant, identified as the Deputy Director of the FBI, is alleged to have made untrue remarks regarding the cause of Mr. Foster's death with the intent to further the "cover-up" of the circumstances of the death. Id. ¶¶ 55-57. John Doe FBI lab technician(s) are alleged to have failed to report the gun shot residue evidence accurately with the intent to conceal the feasibility of the gun shot wound being self-inflicted. ¶¶ 78-100.

Plaintiff does not allege any "agreement" or "meeting of the minds" between these defendants and any other coconspirators, other than in completely conclusory fashion. There is no indication of how, or when, or with whom, for example, the Virginia medical examiner agreed to participate in an overall cover-up. Similarly, there is no such allegations or evidence with respect to the other newly-named defendants. More importantly, as discussed previously, because plaintiff has failed to establish an agreement to interfere with his grand jury testimony, the evidence regarding the greater conspiracy is inconsequential.

The one exception to these proposed defendants is Scott Bickett, who is alleged to have taken actions directed toward plaintiff in furtherance of the conspiracy to interfere with his testimony. Plaintiff alleges that the night before his second interview with Agent Monroe, he was tailgated by Bickett, and that after an altercation over a parking space, Bickett was seen vandalizing his car, causing severe damage. Id. ¶¶ 66-69. Plaintiff further "reasonably believes and therefore avers that Bickett is employment [sic] by the Department of Defense with a Sensitive Compartmented Information security clearance, and that Bickett was briefed at FBI headquarters and has served at the direction of FBI personnel." Id. ¶ 70. Plaintiff alleges that Bickett undertook his acts of vandalism at the direction of the FBI, for the purpose of causing plaintiff to be in a "deteriorated emotional state" during his second interview with Agent Monroe Id. ¶ 70. Plaintiff fails, again, to connect Mr. Bickett with any other alleged conspirator, except to "aver" upon "reasonable belief' that Mr. Bickett works for the Department of

Defense. Even if each detail of plaintiffs interaction with Mr. Bickett is accurate, it does not establish that the incident was connected in any way to the alleged conspiracy. Plaintiff has offered no evidence that Mr. Bickett knows any other alleged conspirator, met with any other conspirator, or otherwise has any connection whatsoever to the investigation of Foster's death or those involved in covering it up.

For the foregoing reasons, the Court determines that permitting plaintiff to amend his complaint would be futile, because it would not change the Court's determination that the defendants' motions for summary should be granted. Therefore, plaintiff 's motion to file a revised second amended complaint will be denied. See Forman v. Davis, 371 U.S. 178, 182, 83 S. Ct. 227, 230 (1962) Gaubert v.Federal Home Loan Bank Bd., 863 F.2d 59, 69, 274 U.S. App. D.C. 153,163 (D.C. Cir. 1988) (upholding district court's denial of a motion to amend where district court had determined that the amended complaint failed to develop conclusory allegations of the first complaints); Armstrong v. United States Bureau of Prisons, 976 F. Supp. 17, 21 (D.D.C. 1997) (denying motion to amend complaint as futile where the plaintiff could not meet burden of showing that there were genuine issues for trial).

III. Conclusion

For the reasons set forth in this memorandum, defendants' motions for summary judgment will be granted. Plaintiff has failed to offer sufficient evidence from which a reasonable fact finder could determine that there existed a meeting of the minds between any of the alleged conspirators. Therefore, his claim pursuant to § 1985(2) must be dismissed. Plaintiffs only federal claim having been dismissed, there is no basis for jurisdiction over his remaining state law claims, and those will therefore be dismissed as well. Finally, plaintiffs motion for leave to file a revised second amended complaint will also be dismissed. An appropriate order accompanies this memorandum.

Date: SEP 9 1999

/S/

JOHN GARRETT PENN
United States District Judge

November 29, 1999: Order denying plaintiff's Rule 59(e) motion to alter or amend judgment

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

PATRICK JAMES KNOWLTON	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 96-2467
	)	(JGP)
United States of America, et al.,	)	
	)	
Defendants.	)	
	)	

MEMORANDUM ORDER

This is matter is before the Court on **Plaintiff's Motion to Alter or Amend Entry of Summary Judgment and Order Denying Leave to Amend Complaint** [#71]. Defendants oppose the motion. For the reasons set forth below, the motion is denied.

On September 9, 1999, by memorandum opinion and accompanying order, the Court granted defendants' motions for summary judgment, denied plaintiff's motion for leave to amend his complaint, and dismissed this action with prejudice. Judgment was entered accordingly. On September 10, plaintiff, apparently unaware of the court's ruling, attempted to file a **Cross-Motion for Partial Summary Judgment on the Issue of the Existence of Conspiracy.** Attached to plaintiff's motion was his proposed amended appendix to the Office of Independent Counsel's report on the death of

Vincent Foster, and exhibits thereto. Because the Court had entered its order dismissing the case, the Clerk of the Court did not accept plaintiff's documents for filing.

Plaintiff then filed the motion now before the Court, asking for reconsideration. Specifically, plaintiff moves pursuant to Federal Rule of Civil Procedure 59(e), asking the Court either to reconsider its ruling in light of his cross-motion and related materials, all of which have been filed as an exhibit to the instant motion, or alternatively to permit his motion to be made a part of the record so that it may be considered on appeal.

The Court may grant a motion to alter or amend a judgment upon a showing that there has been "an intervening change of controlling law, the availability of new evidence, or the need to correct a clear error or prevent manifest injustice." Anyanwutaku v. Moore, 151 F.3d 1053, 1057-58, 331 U.S. App. D.C. 379, 383-84 (1998) (internal quotations omitted); Firestone v. Firestone, 76 F.3d 1205, 1208, 316 U.S. App. D.C. 152, 155 (1996). Plaintiff does not even allege the existence of any of these circumstances. It appears plaintiff simply asks the Court to consider his motion because he attempted to file it only one day after the entry of the Court's order, and because his delay was justified by his desire to wait for a ruling by the Court of Appeals to unseal the material. Plaintiff had ample opportunity to oppose defendants' motions and did so with extensive briefing and numerous exhibits. Plaintiff also had more than enough time to file a cross-motion, or to ask the Court to hold the motions in abeyance pending the Court of Appeals' decision regarding the sealed materials. His failure to do so until after the Court's order had been entered does not justify vacating the judgment. Absent even an allegation that there is any intervening change in law, newly discovered facts, or a clear error, the Court does not deem it appropriate to reopen this matter.

Morever, it is clear from plaintiff's own description of his underlying cross-motion that vacating the judgment to consider his materials would, in any event, be futile. Plaintiff explains that "the subject evidence proves the existence of the overarching conspiracy, at least in the absence of evidence to the contrary." "Reply at 4. This

Court has already ruled, however, that such evidence is not enough to sustain this action. The Court determined that "Plaintiff has failed to offer sufficient evidence from which a reasonable fact finder could determine that there existed a meeting of the minds between any of the alleged conspirators," and that "[t]herefore, his claim pursuant to § 1985(2) must be dismissed." Memorandum at 29. The Court further noted that "*even if* plaintiff could sufficiently establish by his voluminous filings the existence of a conspiracy to obstruct justice into the investigation of the death of Mr. Foster, he cannot rely solely on the existence of that conspiracy to establish the § 1985(2) violation before this Court." Memorandum at 25. Finding that plaintiff failed to connect the named parties to any conspiracy, the Court rejected plaintiff's allegations. Id. Thus, even if plaintiff's motion were proper under Rule 59(e), which it is not, the Court would nevertheless reject reconsideration because plaintiff simply seeks to offer more proof of the existence of an overarching conspiracy, and the Court has already ruled that the case should be dismissed even if such an overall conspiracy could be established.

Finally, plaintiff alternatively asks this Court to include in the record his attempted cross-motion and related materials, even if the Court ultimately denies reconsideration, apparently so they may be considered on appeal. Plaintiff's materials were received as an exhibit to his Rule 59(e) motion to alter or amend. They were not considered by the Court, either in its consideration of the merits of this action or its decision to deny reconsideration. The materials will remain a part of the record as an exhibit to plaintiff's Rule 59(e) motion.

For the reasons stated herein, it is hereby

ORDERED that **Plaintiff's Motion to Alter or Amend Entry of Summary Judgment and Order Denying Leave to Amend Complaint** [#71] is denied.

Date: NOV 29, 1999

/S/
JOHN GARRETT PENN
United States District Judge

Appendix K-2: **UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT Knowlton v. Alouri, et al., No. 99-5433 (CA 96-2467)**

UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT
Knowlton v. Alouri, et al., No. 99-5433 (CA 96-2467)

June 27, 2000: Order granting appellees' motions for summary affirmance

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 99-5433
(C.A. 96-02467 JGP)

PATRICK JAMES KNOWLTON, Appellant)
)
v.)
)
RUSSELL T. BRANSFORD, et al., Appellees)
)

BEFORE: Williams, Ginsburg, and Randolph, Circuit Judges

ORDER

Upon consideration of the motions for summary affirmance, the oppositions thereto, and the replies; and the motion to reconsider court order granting appellees leave to late-file motion for

enlargement of time to file a reply and granting enlargement of time, the oppositions hereto, and the reply, it is

ORDERED that the motion to reconsider be denied. It is

FURTHER ORDERED that the motions for summary affirmance be granted. The merits of the parties' positions are so clear as to warrant summary action. See Taxpayers Watchdog, Inc. v. Stanley, 819 F.2d 294, 297 (D.C. Cir. 1987) (per curiam); Walker v. Washington, 627 F.2d 541, 545 (D.C. Cir). (per curiam), cert. denied, 449 U.S. 994 (1980). On appeal, appellant challenges the district court's grant of summary judgment, with respect to appellant's claim under 42 U.S.C. § 1985(2), in favor of appellees Lawrence Monroe and Russell Bransford, in their individual capacities, and as well as appellee Ayman Alouri. Contrary to his assertions, appellant's evidence fails to support his § 1985(2) claim. See Abercrombie v. City of Catoosa, 896 F.2d 1228, 1230-31 (10th Cir. 1990) (affirming summary judgment against plaintiff on § 1985(2) claim where plaintiff failed to establish "either by direct or circumstantial evidence, a meeting of the minds or agreement among the defendants;" plaintiff offered no evidence of communication between alleged co-conspirators and nothing that would give rise to inference that they conspired).

The Clerk is directed to withhold issuance of the mandate herein until seven days after disposition of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

Per Curiam

/S/

SFW
DHG
ARR

September 13, 2000: Order denying appellant's petition for hearing and petition for hearing en banc

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 99-5433
(C.A. 96-02467 JGP)

PATRICK JAMES KNOWLTON, Appellant)
)
v.)
)
RUSSELL T. BRANSFORD, et al., Appellees)

BEFORE: Williams, Ginsburg and Randolph, Circuit Judges

ORDER

Upon consideration of appellant's petition for rehearing filed July 27, 2000, it is

ORDERED that the petition be denied.

Per Curiam

For the Court:
Mark J. Langler, Clerk
by /S/
Robert A. Bonner
Deputy Clerk

Appendix L: COMPANION CASE ORDERS

Appendix L-1: UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT, *Division 94-1 for the Purpose of Appointing Independent Counsels* Motions of Patrick Knowlton:

September 26, 1997: Order granting motion for inclusion of Knowlton's 20-page submission in the OIC's Appendix to its Report on the Death of Vincent W. Foster. Jr

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UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

Division for the Purpose of
Appointing Independent Counsels

Ethics in Government Act of 1978, As Amended

In Re: Madison Guaranty Savings & Loan Association — Division No. 94-1

Before: SENTELLE, *Presiding Judge*, and BUTZNER and FAY, *Senior Circuit Judges.*

ORDER

Upon consideration of the motion of Patrick Knowlton to include comments as an appendix to the Report on the Death of Vincent Foster, Jr., (the "Report"), and it appearing to the court that the motion should be granted, it is

ORDERED that the appendix to the Report shall include the September 23, 1997 letter from Knowlton's attorney to the court, together with exhibits thereto.

[Entered September 26, 1997]

Per Curiam
For the Court:
Mark J. Langler, Clerk
by /S/
Marilyn R. Sargent
Chief Deputy Clerk

September 30, 1997: Order denying OIC's motion to reconsider the Order for inclusion of Knowlton's submission in the Appendix to the OIC's Report on the Death

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

Division for the Purpose of
Appointing Independent Counsels

Ethics in Government Act of 1978, As Amended

In Re: Madison Guaranty Savings & Loan Association — Division No. 94-1

Before: SENTELLE, *Presiding Judge*, and BUTZNER and FAY, *Senior Circuit Judges*.

ORDER

This matter coming before the court for reconsideration of the court's order of September 26, 1997 allowing the comments of Patrick Knowlton to be included in the appendix to the Report on the Death of Vincent Foster, it is

ORDERED that the motion of the Independent Counsel for reconsideration is denied.

[Entered September 30, 1997]

Per Curiam
For the Court:
Mark J. Langler, Clerk
by /S/
Marilyn R. Sargent
Chief Deputy Clerk

September 14, 1999: Order dismissing motions for lack of jurisdiction and granting unsealing of record in the matter

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

Division for the Purpose of
Appointing Independent Counsels

Ethics in Government Act of 1978, As Amended

In Re: Madison Guaranty Savings & Loan Association — Division No. 94-1

Before: SENTELLE, *Presiding Judge*, FAY and CUDAHY, *Senior Circuit Judges.*

ORDER

This matter coming before the Court upon sealed Motions of Patrick Knowlton: 1) For Leave to Amend Comments and Factual Information Included in the OIC's Interim report on the Death of Vincent Foster; 2) To Unseal Comments and Factual Information Proposed to be an Appendix to the OIC's Report; 3) to Compel the OIC to Produce Grand Jury Minutes; and 4) to Present Evidence to the Grand Jury, it is hereby

ORDERED that the Motions be dismissed for lack of jurisdiction. It is

FURTHER ORDERED that the Motions and all documents filed therewith, as well as the "Notice of Service and Filing" filed on August 30, be unsealed.

[Entered September 12, 1999]

Per Curiam
For the Court:
Mark J. Langler, Clerk
by /S/
Marilyn R. Sargent
Chief Deputy Clerk

Appendix L-2:

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division – no case number assigned
UNDER SEAL – case dismissed for lack of jurisdiction

Appendix L-3:

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
Misc. No. 00-36
UNDER SEAL

Appendix L-4:

THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT
[UNDER SEAL] (Misc. No. 0036) No. 00-3081

In Re Sealed Case No. 3081:
Entered: September 5, 2000: CLERK'S ORDER filed directing Appellant to file docketing statement; certificate of counsel; statement of issues; lower court decision; any procedural motions; transcript status notice; deferred appendix notice; appearance form due 10/5/00; any dispositive motions due 10/5/00. Directing Appellee to file certificate of counsel; any procedural motions; appearance form due 10/5/00; any dispositive motions due 10/20/00

Appendix M: Text of statutes

Appendix M-1: Conspiracy to interfere with civil rights, 42 U.S.C. § 1985 (2)

42 U.S.C. § 1985 (2) Conspiracy to interfere with civil rights [in part]:

> **(2) Obstructing justice; intimidating party, witness, or** juror -- If two or more persons in any State or Territory conspire to deter, by force, intimidation, or threat, any party or witness in any court of the United States from attending such court, or from testifying to any matter pending therein, freely, fully, and truthfully...

Appendix: M-2: **Witness Tampering, 18 U.S.C. § 1512**

18 U.S.C. § 1512:

* * *

(c) Whoever intentionally harasses another person and hinders, delays, prevents, or dissuades any person from-

* * *

(4) causing a criminal prosecution... to be sought or instituted, or assisting in such prosecution or proceeding; or attempts to do so shall be fined under this title or imprisoned...

Appendix M-3: **The Ethics in Government Act of 1978, As Amended, 28 U.S.C. §§ 591-599 (1994).**

28 U.S.C. § 593. Duties of the division of the court

* * *

(b) Appointment and jurisdiction of independent counsel

* * *

(3) Scope of prosecutorial jurisdiction. -- In defining the independent counsel's prosecutorial jurisdiction, the division of the court shall assure that the independent counsel has adequate authority to fully investigate the subject matter with respect to which the Attorney General has requested the appointment of the independent counsel, and all matters related to that subject matter. Such jurisdiction shall also include the authority to investigate and prosecute federal crimes, other than those classified as Class B or C misdemeanors or infractions, that may arise out of the investigation or prosecution of the matter with respect to which the Attorney General's request was made, including perjury, obstruction of justice, destruction of evidence, and intimidation of witnesses. (emphasis supplied)

* * *

(g) Disclosure of information. -- The division of the court may, subject to section 594(h)(2), allow the disclosure of any notification, application, or any other document, material, or memorandum supplied to the division of this chapter.

(h) Amicus curie briefs. -- When presented with significant legal issues, the division of the court may disclose sufficient information about the issues to permit the filing of timely amicus curie briefs.

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28 U.S.C. § 594. Authorities and duties of an independent counsel

* * *

(e) Referral of other matters to an independent counsel – An independent counsel may ask the Attorney General or the division of the court to refer to the independent counsel matters related to the independent counsel's prosecutorial jurisdiction, and the Attorney General of the division of the court, as the case may be, may refer such matters. If the Attorney General refers a matter to an independent counsel on the Attorney General's own initiative, the independent counsel may accept such referral if the matter relates to the independent counsel's prosecutorial jurisdiction. It the Attorney General refers any matter to the independent counsel pursuant to the independent counsel's request, or if the independent counsel accepts a referral made by the Attorney General on the Attorney General's own initiative, the independent counsel shall so notify the division of the court.

(f) Compliance with policies of Department of Justice

> **(1) In general**. An Independent Counsel shall, except where not possible, comply with the written or other established policies of the Department of Justice respecting enforcement of the criminal laws...

* * *

(h) Reports by independent counsel --

> **(1) Required reports** -An independent counsel shall--
>
> > **(A)** file with the division of the court, with respect to the 6-month period beginning on the date of his or her appointment, and with respect to each 6-month period thereafter until the office of that independent counsel terminates, a report which explains major expenses...; and

(B) before the termination of the independent counsel's office under section 596(b), file a final report with the division of the court, setting forth fully and completely a description of the work of the independent counsel, including the disposition of all cases brought. (emphasis supplied)

(2) Disclosure of information in reports - The division of the court may release to the Congress, the public, or any appropriate person, such portions of a report made under this subsection as the division of the court considers appropriate. The division of the court may make any portion of the final report filed under paragraph (1)(B) available to any individual named in such report for the purposes of receiving within a time limit set by the division of the court any comments or factual information that such individual may submit. Such comments and factual information, in whole or in part, may, in the discretion of the division of the court, be included as an appendix to such final report. (emphasis supplied)

---

28 U.S.C. § 596. Removal of independent counsel; termination of office

* * *

(b) Termination of office --

(1) Termination by action of independent counsel. An office of independent counsel shall terminate when --

(A) the independent counsel notifies the Attorney General that the investigation of all matters within the prosecutorial jurisdiction of such independent counsel or accepted by such independent counsel under section 594(e), and any resulting prosecutions, have been

completed or so substantially completed that it would be appropriate for the Department of Justice to complete such investigations and prosecutions; and

(B) the independent counsel files a final report in compliance with section 94(h)(1)(B) (emphasis supplied)

---

28 U.S.C. § 597: Relationship with Department of Justice--

(a) Suspension of other investigations and proceedings -- Whenever a matter is in the prosecutorial jurisdiction of an independent counsel under section 594(e), the Department of Justice, the Attorney General, and all other officers and employees of the Department of Justice shall suspend all investigations and proceedings regarding such matter, except to the extent required by section 594(d)(1), and except insofar as such independent counsel agrees in writing that such investigation or proceedings may be continued by the Department of Justice. (emphasis supplied)

Appendix M-4: **Special Grand Jury, Chapter 216, 18 U.S.C. §§ 3331, 3332, Summoning and term; Powers and duties.**

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18 U.S.C. § 3331. Summoning and term

(a) In addition to such other grand juries as shall be called from time to time, each district court which is located in a judicial district containing more than four million inhabitants or in which the Attorney General, the Deputy Attorney General, the Associate Attorney General or any designated Assistant Attorney General, certifies in writing to the chief judge of the district that in his judgment a special grand jury is necessary because of criminal activity in the district shall order a special grand jury to be summoned at least once in each period of eighteen months unless another special grand jury is then serving. The grand jury shall serve for a term of eighteen months unless an order for its discharge is entered earlier by the court upon a determination of the grand jury by majority vote that its business has been completed. (emphasis supplied)

18 U.S.C. § 3332. Powers and duties

(a) It shall be the duty of each such grand jury impaneled within any judicial district to inquire into offenses against the criminal laws of the United States alleged to have been committed within that district. Such alleged offenses may be brought to the attention of the grand jury by the court or by any attorney appearing on behalf of the United States for the presentation of evidence. Any such attorney receiving information concerning such an alleged offense from any other person shall, if requested by such other person, inform

the grand jury of such alleged offense, the identity of such other person, and such attorney's action or recommendation.
(b) Whenever the district court determines that the volume of business of the special grand jury exceeds the capacity of the grand jury to discharge its obligations, the district court may order an additional special grand jury for that district to be impaneled. (emphasis supplied)

Appendix N **October 22, 1995, *London Sunday Telegraph***
"Death in the Park: Is this the killer? Foster mystery: a key witness ignored by the FBI reveals the face"

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The Sunday Telegraph

FOREIGN NEWS

THE SUNDAY TELEGRAPH OCTOBER 22, 1995

#3

Foster mystery: a key witness ignored by the FBI reveals the face of a possible murderer

Death in the park: is this the killer?





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proceeded into the park to urinate. He further mentioned that this male was staring at him making him, feel extremely nervous and uneasy. He could not further identify this particular individual nor his attire and stated that he would be unable to recognize him in the future.

into the parking space. The hood of the vehicle was up and a white male was standing in the vicinity of the vehicle. He described the white male as in his mid- to late 40's, approximately six feet in height, medium build, long blonde hair and beard, appeared unclean and unkept.

Confusion or cover-up? The FBI virtually ignored the testimony of one witness at the death scene in Fort Marcy Park and the Fiske Report overlooked the Bureau's own evidence. Right: Foster had close links with Hillary Clinton

From FBI documents: Knowlton says the statement above is wrong and he would recognise the man he saw. And despite the couple's statements (left) the Fiske Report says they saw 'nothing unusual'

BEST AVAILABLE COPY

by Ambrose Evans-Pritchard in Washington

THAT face. Thin and pointed, with menacing eyes. It has haunted Patrick Knowlton for more than two years. He can still remember the Hispanic features exactly as they were on July 20, 1993, the day he stopped at a secluded Virginia park for a quick pee in the bushes. The man was on watch, guarding something. He looked the type who was fully capable of killing.

Hours later, Knowlton heard on the news that a close friend of President Clinton had been found dead in the same park. The victim was Vincent Foster, the Deputy White House Counsel, one of the close-knit Arkansas group.

Knowlton, a construction consultant, called the US Park Police. He thought he had vital information.

Perhaps he had seen a murder suspect. But the police did not seem to be interested. They took a few details in a desultory chat over the telephone. Nobody came to see him.

His statement in the police report was full of mistakes. Even his name was spelled incorrectly.

In the spring of 1994 he was interviewed by the FBI. It was during the early phase of the investigation by Independent Counsel Robert Fiske. He claims that the FBI tried to badger him into changing his story.

When *The Sunday Telegraph* showed him police and judicial summaries of his testimony — which he had not seen — he was stunned, saying his statements had been falsified.

As he tells the story, he stopped at Fort Marcy Park at 4.30pm on July 20. There were two cars in the car park. One was a brown Honda Accord with Arkansas licence plates, subsequently identified as Foster's car. The other was a blue sedan, possibly a Japanese make. There was a man in his twenties sitting inside it with a manicured appearance. He lowered his window and gave Knowlton a threatening look.

"I was worried about getting mugged, so I left my wallet under the seat," said Knowlton. "As I got out I heard his car door open and I thought 'Oh sh*t', this is it, the guy's coming after me'. But he just stood there leaning over the roof of the car, watching me . . . When I came back I looked at him and I thought something's going to happen to me unless I get the hell out of here. I really thought he might kill me."

His FBI statement says that Knowlton "could not further identify this individual and stated that he would be unable to recognise him in the future".

"That's an outright lie," he said, angrily. "I want it on the record that I never said that. I told them that I could pick him out of a line-up."

The Sunday Telegraph asked if he would be willing to help with an artist's sketch of the suspect. He agreed. Since the US judicial authorities have failed to take the initiative, we have decided to do it ourselves. The sketch above is drawn by an experienced police artist.

Knowlton was the first eye witness to look into Foster's car. He saw a briefcase on the front passenger seat. "I remember thinking these people from Arkansas must be real stupid to leave a briefcase on the front seat," he said. (The US Park Police claim that no briefcase was found in the car. Foster's briefcase later turned up at the White House.) He also noted that the driver's seat was forward, which would be strange for a man of 6ft 4in.

Knowlton's FBI statement says that the blue sedan had Virginia licence plates. "That's not true," he said. "I never said that. I told them I didn't see the tags." What is even more bizarre is that the FBI tried to convince him that Foster's car was blue, not brown. [According to the official record, Foster's car was light brown or taupe.] They showed him a photograph of a blue Honda with Foster's Arkansas number plates. It was a newer model Honda, with a gloss paint, fancy wheels, and a dent in the back — a totally different car.

"They went over it about 20 times, telling me that this was Foster's car," said Knowlton. "But I was quite adamant about it. I saw what I saw, and I wasn't going to change my story."

The official report on the death of Vince Foster, released by Robert Fiske in June 1994, cites Knowlton's testimony on subsidiary issues but makes no mention of the encounter with the menacing man in the blue car. Not a single word.

Kenneth Starr, who took over as Independent Counsel when Fiske was sacked by a panel of judges in 1994, seems content to let his predecessor close the book on this. Starr's investigators have never talked to Knowlton. The federal grand jury has never summoned him to give sworn testimony.

Knowlton is not the only witness to have had vital testimony suppressed by the Fiske Report. Fiske also neglected to mention the devastating information given by a couple found at the park when the police first arrived, shortly after 6pm. The couple, both Washington professionals, had been sitting in their car in the car park, chatting to each other, from about 5-5.30pm. The only other car in the lot was Foster's brown Honda.

The hood of the vehicle was up and a white male was standing in the vicinity of the vehicle," says the FBI statement of the man. "He described the white male as in his mid- to late 40's, approximately six feet in height, medium build, long blonde hair and beard, appearing unclean and unkept[sic]."

The woman told the FBI she saw Foster's Honda in the car park. "A white male was seated in the driver's seat of this particular vehicle," said her statement. "She believed the occupant had dark hair and could have been bare-chested."

The eyewitness account of this couple is arguably the most crucial testimony in the entire Foster case. The couple were the *only* crime scene witnesses, apart from Knowlton, with important and relevant information. They told the FBI they saw two men tinkering with Foster's car. The Fiske Report says that neither individual "observed anything unusual".

This is astonishing, as is the fact that Knowlton vigorously disputes the FBI's and the park police's accounts of his testimony as a witness. The woman told *The Sunday Telegraph* that she has never been called before the grand jury.

She had a brief chat with a prosecutor for the Starr investigation last winter but has not been asked any further questions.

It has been reported in the US press that Kenneth Starr is wrapping up the Foster case, and is expected to reach a ruling of suicide within the next few weeks.

This is baffling news. How can a serious prosecutor come to a definitive conclusion before he has called the most important crime scene witnesses before the grand jury?

How can he rule suicide without even beginning to explore leads that point in the direction of foul play and possibly murder. Mr Starr is a man of integrity and high standing.

He is not a man who would throw away his reputation so lightly. Or is he?